



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

July 23, 2019

Clerk, United States Court of
Appeals for the Seventh Circuit
Everett McKinley Dirksen Courthouse
219 South Dearborn Street, Rm. 2722
Chicago, IL 60604

Re: *NLRB v. Perkins Management Services
Company*, Board Case No. 13-CA-223500

Dear Clerk:

I am enclosing the Board's application for summary entry of a judgment enforcing the Board's order in this case and a proposed judgment.

Please serve a copy of the application on Respondent, whose address appears on the service list. I have served a copy of the Board's application and proposed judgment on each party admitted to participate in the Board proceedings, and their names and addresses also appear on the service list.

I am counsel of record for the Board, and all correspondence should be addressed to me. I would appreciate your furnishing the Board's Regional Director, whose name and address also appears on the service list, with a copy of all correspondence the Court sends to counsel in this case, and a copy of the judgment issued.

Very truly yours,

/s/ David Habenstreit

David Habenstreit
Acting Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, S.E.
Washington, D.C. 20570
(202) 273-2960

cc & documents to: Service List

SERVICE LIST

RESPONDENT:

Tonya Ford, Human Resources Director
Perkins Management Svcs. Co., operating at
Chicago State University
7730 England St., Ste. A
Charlotte, NC 28202-5320

Phone: (704) 372-3439
Fax: (704) 372-3441
Email: www.perkinsusa.com

THE BOARD IS NOT AWARE OF A
COUNSEL FOR RESPONDENT

CHARGING PARTY:

Kasey Nalis
UNITE HERE Local 1
218 S. Wabash Ave., Ste. 700
Chicago, IL 60604

Phone: (312) 663-4373
Fax: (312) 986-4510
Email: knalis@unitehere1.org

REGIONAL DIRECTOR:

Peter Sung Ohr, Regional Dir.
National Labor Relations Board
The Rookery Building
209 South LaSalle Street, Ste. 900
Chicago, IL 60604-52008

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	No.
Petitioner	:	
v.	:	
	:	Board Case No.:
PERKINS MANAGEMENT SERVICES COMPANY	:	13-CA-223500
	:	
Respondent	:	

APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT
ENFORCING AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States
Court of Appeals for the Seventh Circuit:

The National Labor Relations Board (the “Board”), pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)), applies to this Court for summary entry of a judgment enforcing its order against Perkins Management Services Company (“Respondent”). The Board is entitled to summary enforcement because Respondent failed to file an answer to the Board’s unfair labor practice complaint and the Board entered an order by default. In support, the Board shows:

A. Jurisdiction of this Court

This Court has jurisdiction over this application under Section 10(e) of the Act (29 U.S.C. § 160(e)). Venue is proper in this Circuit because the activities

giving rise to this proceeding occurred in Illinois. The Board's final order issued on May 30, 2019, and is reported at 367 NLRB No. 146.

B. Proceedings Before the Board

1. On November 5, 2018, the General Counsel issued a complaint in Case No. 13-CA-223500, charging Respondent with certain violations of the Act. The complaint, in part, advised the Respondent that under the Board's Rules (29 C.F.R. 102.20 and 102.21), the Respondent was required to file an answer by November 19, 2018, and that if the Respondent failed to file an answer the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the allegations in the complaint are true.

2. Respondent did not file an answer.

3. On November 29, 2018, counsel for the General Counsel sent Respondent a letter stating that no answer had been received to the Complaint and Notice of Hearing. The letter notified Respondent that if an answer is not received by December 6, 2018, the Region will file a Motion for Default Judgment with the Board.

4. Respondent did not file an answer.

5. On December 20, 2018, counsel for the General Counsel filed with the Board a Motion for Default Judgment based upon the Respondent's failure to file an answer to the complaint.

6. By order dated January 3, 2019, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondent until January 17, 2019, to file with the Board, a response to the Motion for Default Judgment.

7. Respondent did not file a response. The allegations in the motion were therefore undisputed.

8. The Board, on May 30, 2019, issued its Decision and Order, granting the Motion for Default Judgment in the absence of good cause being shown for Respondent's failure to file a timely answer, and entering an appropriate order against the Respondent.

C. The Board Is Entitled to Summary Enforcement of Its Order

On these facts, the Board is entitled to summary enforcement of its order against Respondent. Where a respondent in a Board proceeding fails to file an answer to the unfair labor practice complaint in a timely manner, the Board may, pursuant to Board Rule 102.20, absent a showing of "good cause," deem the complaint's allegations admitted, and then may enter an order, essentially by default, against the respondent. No good cause for Respondent's failure to file an answer was shown here.

It is settled that the Board is entitled to have that default judgment summarily enforced. Under Section 10(e) of the Act (29 U.S.C. § 160(e)), no objection that has not been urged before the Board shall be considered by a court

of appeals “unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.” Interpreting that requirement, courts have consistently held that a respondent’s failure to assert any defense before the Board entitles the Board, absent extraordinary circumstances, to summary enforcement of its order. *See, e.g., NLRB v. Dane County Dairy*, 795 F.2d 1313, 1319-21 (7th Cir. 1986); *Father and Sons Lumber v. NLRB*, 931 F.2d 1093, 1095-96, 1097 (6th Cir. 1991); *NLRB v. Continental Hagen Corp.*, 932 F.2d 828, 830 (9th Cir. 1991); *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 341 (3d Cir. 1984); *NLRB v. Aaron Convalescent Home*, 479 F.2d 736, 738-39 (6th Cir. 1973). No such circumstances have been shown here.

WHEREFORE, the Board respectfully requests that the Court, after serving notice of the filing of this application on Respondent, enter judgment summarily enforcing the Board’s order in full. A proposed judgment is attached.

/s/ David Habenstreit
David Habenstreit
Acting Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570

Dated in Washington, D.C.
this 23rd day of July, 2019

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	No.
Petitioner	:	
v.	:	
	:	Board Case No.:
PERKINS MANAGEMENT SERVICES COMPANY	:	13-CA-223500
	:	
Respondent	:	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Perkins Management Services Company, its officers, agents, successors, and assigns, enforcing its order dated May 30, 2019, in Case No. 13-CA-223500, reported at 367 NLRB No. 146, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Perkins Management Services Company, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Judge, United States Court of
Appeals for the Seventh Circuit

NATIONAL LABOR RELATIONS BOARD

v.

PERKINS MANAGEMENT SERVICES COMPANY

ORDER

Perkins Management Service Company, its officers, agents, successors, and assigns, shall:

1. Cease and desist from
 - (a) Failing to continue in effect all the terms and conditions of the August 1, 2015–September 1, 2019 collective-bargaining agreement with UNITE HERE, Local 1 by repudiating the grievance/arbitration procedure of the contract without the Union’s consent, by failing and/or refusing to respond, meet, and/or process grievances, and by failing to respond to the Union’s request to schedule dates to strike arbitrators.
 - (b) Refusing to bargain collectively with the Union by failing and refusing to furnish it with requested information that is necessary and relevant to the Union’s performance of its functions as the collective-bargaining representative of the Respondent’s unit employees.
 - (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Comply with the contractual grievance/arbitration procedure, process all grievances that have not been processed since February 20, 2018, and respond to the Union’s request to schedule dates to strike arbitrators.
 - (b) Furnish to the Union in a timely manner the information it requested by email on February 20, March 16 and 22, April 23, and June 1, 2018, and verbally on June 1 and 5, 2018.
 - (c) Within 14 days after service by the Region, post at its facility in Chicago, Illinois copies of the attached notice marked “Appendix.” Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent’s authorized

representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 20, 2018.

- (d) Within 21 days after service by the Region, file with the Regional Director for Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT repudiate, or fail and refuse to adhere to, the grievance/arbitration provision of our collective-bargaining agreement with UNITE HERE, Local 1.

WE WILL NOT refuse to bargain collectively with the Union by failing and refusing to furnish it with requested information that is necessary and relevant to the performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL adhere to the grievance/arbitration provision of our collective-bargaining agreement with the Union and WE WILL process any grievances we failed to process pursuant to that provision and respond to the Union's request to schedule dates to strike arbitrators.

WE WILL furnish to the Union in a timely manner the information it requested by email on February 20, March 16 and 22, April 23, and June 1, 2018, and verbally on June 1 and 5, 2018.

PERKINS MANAGEMENT SERVICE COMPANY

The Board's decision can be found at www.nlr.gov/case/13-CA-223500 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



