



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

December 11, 2019

Michael E. Gans, Esquire
Clerk United States Court of
Appeals for the Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South Tenth St., Rm 24.329
St. Louis, MO 63102

Re: *NLRB v. Amazing Pet Expositions LLC*
d/b/a Amazing Pet Expos and Pet Event Pros,
Board Nos. 14-CA-232234, 14-CA-232256,
and 14-CA-234201

Dear Mr. Gans:

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

Please serve a copy of the application on Respondent, whose addresses appear 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 appear 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 St., S.E.
Washington, D.C. 20570
(202) 273-2960

cc: Service List

SERVICE LIST

<p><u>RESPONDENT:</u> William Rilenge, Owner Amazing Pet Expositions LLC d/b/a Amazing Pet Expos 881 Berick Drive St. Louis, MO 63132 Tel: (314) 750-6329</p> <p>William Rilenge, Owner Amazing Pet Expositions LLC d/b/a Amazing Pet Expos 555 Washington Ave., Ste 310 St. Louis, MO 63103 Tel: (314) 750-6329</p>	<p><u>CHARGING PARTIES:</u> Nat Welage 5031 Oleatha Ave., Apt. 1E Saint Louis, MO 63139-1301 Mobile: (314) 599-8288 Email: nwelage611@gmail.com</p> <p>Katlyn Shuckhart 5031 Oleatha Ave Apartment 1E Saint Louis, MO 63139-1301 Mobile: (314) 599-8291 Email: kshuckhart93@gmail.com</p> <p>Michelle Fite 7215 Delta Ave. Saint Louis, MO 63117-2322 Mobile: (314) 540-8190 Email: mnjoanf@gmail.com</p>
<p><u>REGIONAL DIRECTOR:</u> Paula S. Sawyer National Labor Relations Board 1222 Spruce St., Room 8.302 St. Louis, MO 63103-2829. Tel: (314) 539-7770</p>	

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
	:	
v.	:	
	:	Board Case Nos.:
AMAZING PET EXPOSITIONS LLC D/B/A	:	14-CA-232234
AMAZING PET EXPOS AND PET EVENT PROS	:	14-CA-232256
	:	14-CA-234201
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 Eighth 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 Amazing Pet Expositions LLC d/b/a Amazing Pet Expos and Pet Event Pros (Respondent). The Board is entitled to summary enforcement of its order because Respondent withdrew its 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 unfair labor

practices occurred in Missouri. The Board's final order issued on October 18, 2019, and is reported at 368 NLRB No. 98.

B. Proceedings Before the Board

1. On April 5, 2019, the Board's General Counsel issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in Case Nos. 14-CA-232234, 14-CA-232256, and 14-CA-234201, charging Respondent with certain violations of the Act. The Consolidated Complaint 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 and that if Respondent failed to file an answer, the allegations in the Consolidated Complaint would be deemed to be admitted as true and a Motion for Default Judgment would be filed with the Board.

2. The Respondent filed an answer on April 18, 2019, however; on July 9, 2019, Respondent filed a motion to withdraw its answer and requested that the Board order "any and all such further relief as is appropriate, equitable, and available."

3. On July 10, 2019, the Regional Director granted the motion to withdraw and, on that same day, the Counsel for General Counsel filed a Motion for Default Judgment with the Board.

4. By order dated July 17, 2019, the Board transferred the case to itself and issued a Notice to Show Cause giving Respondent until July 31, 2019, to show

why the motion should not be granted.

5. Respondent did not file a response. The allegations of the motion were therefore undisputed.

6. The Board, on October 18, 2019, issued its Decision and Order, finding that withdrawal of an answer has the same effect as a failure to file an answer, i.e., the allegations in the complaint must be considered to be true.¹ Accordingly, the Board granted the Motion for Default Judgment and entered 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 put before the Board an answer to the unfair labor practice complaint, 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.

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

¹ See *Maislin Transport*, 274 NLRB 529, 529 (1985)

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., 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); *NLRB v. Dane County Dairy*, 795 F.2d 1313, 1319-21 (7th Cir. 1986); *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 341 (3d Cir. 1984); *KBI Security Service, Inc. v. NLRB*, 91 F.3d 291, 295 (2d Cir. 1996). No such circumstances have been alleged or 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 St., S.E.
Washington, D.C. 20570

Dated in Washington, D.C.
this 11th day of December, 2019

UNITED STATES COURT OF APPEALS
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	:	14-CA-234201
Respondent	:	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Amazing Pet Expositions LLC d/b/a Amazing Pet Expos and Pet Event Pros, its officers, agents, successors, and assigns, enforcing its order dated October 18, 2019, in Case Nos. 14-CA-232234, 14-CA-232256, and 14-CA-234201, reported at 368 NLRB No. 98, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Amazing Pet Expositions LLC d/b/a Amazing Pet Expos and Pet Event Pros, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

DATED:

NATIONAL LABOR RELATIONS BOARD

v.

AMAZING PET EXPOSITIONS LLC
D/B/A AMAZING PET EXPOS AND PET EVENT PROS

ORDER

Amazing Pet Expositions LLC d/b/a Amazing Pet Expos and Pet Event Pros, Saint Louis, Missouri, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Maintaining or enforcing provisions of its Employee Confidentiality and Non-Compete Agreement prohibiting employees from discussing pay, pay practices, or other terms and conditions of employment.
- (b) Telling employees that because it is unlawful to terminate employees for going on strike, the Respondent would have to find another reason to terminate striking employees.
- (c) Telling employees not to talk around returning strikers because they might be recording conversations.
- (d) Telling employees not to talk about pay around other employees.
- (e) Discharging or otherwise discriminating against employees because they discuss pay, pay practices, or other terms and conditions of employment, or engage in other protected concerted activities.
- (f) 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) Rescind the provisions of the Employee Confidentiality and Non-Compete Agreement prohibiting employees from discussing pay, pay practices, or other terms and conditions of employment.
- (b) Furnish employees with an insert for the current Employee Confidentiality and Non-Compete Agreement that (1) advises that the unlawful provisions have been rescinded, or (2) provides lawfully worded provisions on adhesive backing that will cover the unlawful

provisions; or publish and distribute to employees a revised Employee Confidentiality and Non-Compete Agreement that (1) does not contain the unlawful provisions, or (2) provides lawfully worded provisions.

- (c) Within 14 days from the date of this Order, offer Nat Welage, Katlyn Shuckhart, and Michelle Fite reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
- (d) Make Nat Welage and Katlyn Shuckhart whole for any loss of earnings and other benefits suffered as a result of their unlawful discharge on November 20, 2018, in the manner set forth in the remedy section of this Decision and Order.
- (e) Make Michelle Fite whole for any loss of earnings and other benefits suffered as a result of her unlawful discharge on November 26, 2018, in the manner set forth in the remedy section of this Decision and Order.
- (f) Compensate Nat Welage, Katlyn Shuckhart, and Michelle Fite for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 14, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.
- (g) Within 14 days from the date of this Order, remove from its files all references to the unlawful discharges of Nat Welage, Katlyn Shuckhart, and Michelle Fite, and within 3 days thereafter, notify each in writing that this has been done and that the discharges not be used against them in any way.
- (h) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (i) Within 14 days after service by the Region, post at its facility in Saint Louis, Missouri, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for

Region 14, 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 June 6, 2018.

- (j) Within 21 days after service by the Region, file with the Regional Director for Region 14 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 maintain or enforce provisions of our Employee Confidentiality and Non-Compete Agreement prohibiting you from discussing pay, pay practices, or any other term and condition of employment.

WE WILL NOT tell you that because it is unlawful to terminate employees for going on strike, we will have to find another reason to terminate striking employees.

WE WILL NOT tell you not to talk around returning strikers because they might be recording conversations.

WE WILL NOT tell you not to talk about pay around other employees.

WE WILL NOT discharge or otherwise discriminate against you because you discuss pay, pay practices, or other terms and conditions of employment with other employees, or engage in any other of the above activities.

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 rescind the provisions of the Employee Confidentiality and Non-Compete Agreement prohibiting you from discussing pay, pay practices, or other terms and conditions of employment.

WE WILL furnish you with an insert for the current Employee Confidentiality and Non-Compete Agreement that (1) advises that the unlawful provisions have been rescinded, or (2) provides lawfully worded provisions on adhesive backing that will cover the unlawful provisions; or publish and distribute to you a revised

Employee Confidentiality and Non-Compete Agreement that (1) does not contain the unlawful provisions, or (2) provides lawfully worded provisions.

WE WILL, within 14 days from the date of this Order, offer Nat Welage, Katlyn Shuckhart, and Michelle Fite reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Nat Welage, Katlyn Shuckhart, and Michelle Fite whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, less any net interim earnings, plus interest, and WE WILL also make those employees whole for reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate Nat Welage, Katlyn Shuckhart, and Michelle Fite for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and WE WILL file with the Regional Director for Region 14, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.

WE WILL, within 14 days from the date of the Board's Order, remove from their files all references to the unlawful discharges of Nat Welage, Katlyn Shuckhart, and Michelle Fite, and WE WILL within 3 days thereafter, notify each in writing that this has been done and that the discharges will not be used against them in any way.

AMAZING PET EXPOSITIONS LLC
D/B/A AMAZING PET EXPOS AND PET EVENT PROS

The Board's decision can be found at www.nlr.gov/case/14-CA-232234 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.



UNITED STATES COURT OF APPEALS
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	:	14-CA-234201
Respondent	:	

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment and proposed judgment, in the above-captioned case, has this day been served by first class mail upon the following party at the addresses below:

William Rilenge, Owner
Amazing Pet Expositions LLC
d/b/a Amazing Pet Expos
881 Berick Drive
St. Louis, MO 63132

William Rilenge, Owner
Amazing Pet Expositions LLC
d/b/a Amazing Pet Expos
555 Washington Ave., Ste 310
St. Louis, MO 63103

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

Dated at Washington, D.C.
this 11th day of December, 2019