

THE TRANSPORTATION)
CORPORATION)
)
)
v.)
)
)
WORLD ASSOCIATION OF)
MOTORCAR INSPECTORS,)
WAMI, NEW YORK CITY)
REGIONAL LOCAL)
_____)

NATIONAL LABOR RELATIONS
BOARD

NLRB HQ; WASHINGTON, D.C.

CASE NO. 22-CA-234445;
22-CA-237918; 22-CA-237032

**REPLY TO REGION 22'S
OPPOSITION TO THE BOARD'S
ORDER SHOW CAUSE**

PLEASE TAKE NOTICE THAT NOW COMES Ryan Johnson and the Union, WAMI NYC, by and through its representative, and respectfully requests the Board to grant the Union's Motion for Default filed on September 24, 2019 per the Board's Order To Show Cause filed on January 16, 2020, for all interested parties having failed to show cause.

The Charging Party asserts the following facts and laws:

The Board's Consolidated Complaint, properly filed and served on Charged Party, states:

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must

be received by this office on or before September 13, 2019, or postmarked on or before September 12, 2019... If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true. (Emphasis quoted, see Exhibit H).

Charged Party was put on ample notice that failure to answer timely would result in default in the Board's Complaint. Region 22 acknowledges Charged Party's history of noncompliance with the Board's investigation in the Region's pleadings. Charged Party's refusal to timely answer merely confirms Charged Party's noncompliant tendency. Therefore, Charged Party remains in default.

NLRA §102.4(a) states that:

Complaints and compliance specifications (including accompanying notices of hearing, and amendments to either complaints or to compliance specifications), final orders of the Board in unfair labor practice cases and Administrative Law Judges' decisions must be served upon all parties personally, by registered or certified mail, by leaving a copy at the principal office or place of business of the person required to be served, by email as appropriate, or by any other method of service authorized by law.

In the present case, Region 22 and Charged Party acknowledge that the Complaint was filed and served upon Charged Party at Charged Party's **address for legal service of**

procces presently registered with the California Secretary of State (see Exhibits A and B). Charged Party has maintained that address with the Secretary at least as far back as 2012 (see Exhibit C). The fact that Charged Party hides out in San Fernando while Charged Party's mail accumulates in a mailbox at Charged Party's car lot in Van Nuys is not an excuse for Charged Party's failure to retrieve mail. Therefore, Charged Party remains in default.

Reinforcing Charged Party's default, NLRA §102.3 states that:

Where service is made by mail, private delivery service, or email, the date of service is the day when the document served is deposited in the United States mail, is deposited with a private delivery service that will provide a record showing the date the document was tendered to the delivery service, or is sent by email, as the case may be.

As Region 22 and Charged Party acknowledge that the Complaint was properly mailed to Charged Party's legal service address, the effective date of service of the Complaint is August 30 (see Exhibit H)—**when deposited into the mail**. Charged Party did not voice any issue concerning that mailbox until Charged Party's failure to timely answer, although the record shows that Charged Party has been receiving mail at that location as far back as 2018. In fact, Charged Party acknowledges that the Complaint would have been received sooner if anyone in the call center had bothered to check the mailbox. Therefore, Charged Party remains in default.

NLRA §102.2(d) expressly governs late-filed documents:

(1) The following documents may be filed within a reasonable time after the time prescribed by these Rules only upon good cause shown based on excusable neglect and when no undue prejudice would result: (i) In unfair labor practice proceedings, motions, exceptions, answers to a complaint or a backpay specification, and briefs; and (ii) In representation proceedings, exceptions, requests for review, motions, briefs, and any responses to any of these documents.

(2) **A party seeking to file such documents beyond the time prescribed by these Rules must file, along with the document, a motion that states the grounds relied on for requesting permission to file untimely.** The specific facts relied on to support the motion must be set forth in affidavit form and sworn to by individuals with personal knowledge of the facts. (Emphasis added).

In the present case no such motion, letter, nor extension request was ever filed nor served. The motion **must** be filed. Therefore, Charged Party remains in default.

Tri-way Security & Escort Service, Inc., 310 NLRB 209 (1993), involves the substitution of a timely filed and served general opposition letter in place of a comprehensive answer. In that case, timeliness was not at issue. In contrast, the present case involves Charged Party's **late** answer. Although a conforming certificate of service conceivably might not be required for timely filed and served pleadings, an accurate certificate of service is

directly at issue where the pleading is late. Tri-way Security is irrelevant here. As stated previously herein, NLRA §102.2(d) applies to late pleadings. Therefore, Charged Party remains in default.

Acme Building Maintenance, 308 NLRB 358 (1992), similarly to Tri-way Security, involves the combination of a timely filed and served partial opposition letter and a second later filed partial opposition letter, constituting a valid answer. In that case, timeliness was not at issue. In contrast again, the present case involves Charged Party's late answer. Furthermore, Region 22 is effectively asking the Board to accept: (i) that company owner, Kevin Dale, could not reasonably confirm that Kevin Dale's eldest son, Ryan Dale, was qualified to represent the company—**after Kevin Dale fired Sanford Rudnick for losing the company's election appeal**; (ii) that Charged Party's omission of a certificate of service, coupled with its late answer, coupled in turn with a forged date affixed thereto, is a coincidence, despite Charged Party having previously engaged in forgery (see Exhibits D, F, and G); and (iii) that Region 22 customarily issues secretive and unilateral extensions of its own volition, **even where Investigator Eric Pomianowski previously called Charging Party to request an extension on behalf of Mr. Rudnick**. That scenario, while awfully convenient for Region 22 and Charged Party allege simultaneously, is highly unlikely and unreasonable to accept. Therefore, Charged Party remains in default.

Additionally, Charged Party has been in consulting with a labor and employment attorney regarding Charging Party's New Jersey CEPA claim (see Exhibit E). That claim was filed

in May of 2019. Region 22's argument that Charged Party has been entirely pro se is erroneous. To date, the corporation has been represented by 4 separate persons: Jesse DeCrescenzo, Sanford Rudnick, Ryan Dale, and Kevin Doherty. Furthermore, Charged Party consists of a corporation, a subsidiary limited liability company, and an online business operating as WeBuyCars.com. Although those businesses maintain multiple locations in California, those business also own substantial assets nationwide—employing workers nationwide as well. Charged Party need not represent itself pro se due to any financial hardship, as Charged Party has demonstrated.

In contrast, Charging Party presently consists of merely one (1) individual, Ryan Johnson. Although the Union contained four (4) members when authorization cards were signed, Mr. Rudnick negotiated the number of certifiable Union members down to only three (3) members. By the time the Union was certified and/or Employer entered CBA negotiations, all Union members were severed from the company except the Union organizer, Mr. Johnson. As a result, Mr. Johnson has been personally funding the Union and has had no choice, financially, but to appear pro se before the Board.

Mr. Johnson is further challenged by struggles with mental and physical illnesses for which Mr. Johnson has been forced to forego medical treatment, as a result of Charged Party's cancellation of Mr. Johnson's health insurance. Mr. Johnson nor the Union ever agreed to withdrawal of a majority of ULP charges as alleged by Ms. Elrashedy's email message to Ryan Dale alone, which is attached to the Region's Opposition letter. In fact, Mr. Johnson did not even speak with Ms. Elrashedy regarding any withdrawal. As

Charging Party previously asserted in its Request for Review of partial dismissal, Ms. Elrashedy's email message is the Region's sole alleged evidence regarding Mr. Johnson's alleged consent to withdrawal. Considering Mr. Johnson's financial and medical disadvantages in conjunction with the excessive anti-union bias perpetrated on Mr. Jonnson by Region 22, any leeway for appearing pro se should be granted in favor of Mr. Johnson and against The Transportation Corporation; The Used Car Club, LLC; nor WeBuyCars.com. Therefore, Charged Party remains in default.

In the recent case of Vince & Sons Co. and Jo Mo Enterprises, Inc. d/b/a Vince & Sons Pasta, alter-ego and/or Golden State Successor and Judella, Inc. d/b/a Vince & Sons Pasta, alter-ego and/or Successor, 368 NLRB 071 (2019), employer and personally, employer's agents, were held in default by the Board for having filed deficient answers and separately, untimely answers. Similarly, Charged Party's answer in the present case is **deficient and untimely**. Therefore, Charged Party-Employer remains in default.

Conclusion

For all of the foregoing reasons, Charged Party and Region 22 have failed to meet the burden of showing cause to deny default pursuant to the High Board's Order To Show Cause. Charging Party respectfully prays that the High Board find Charged Party in default, granting the relief requested in the Notice of Motion for Default filed and served on or about September 24, 2019.

This, the 25th day of January, 2020.



*Ryan L. Johnson, President
WAMI NYC
78 Sparta Ave, Apt 2-B
Newton, NJ 07860
Tel: (973) 424-3584*

ATTESTATION, AFFIRMATION, AND CERTIFICATION

I, the undersigned, hereby attest, affirm, and certify under penalty of perjury, that all of the foregoing facts are complete, true, and accurate to the best of my knowledge. I understand that the law imposes criminal penalties for intentional or willfully misleading statements of facts.

This, the 25th day of January, 2020.

A handwritten signature in black ink, appearing to read 'R. Johnson', written over a horizontal line.

*Ryan L. Johnson, President
WAMI NYC
78 Sparta Ave, Apt 2-B
Newton, NJ 07860
Tel: (973) 424-3584*

Exhibit A



Alex Padilla California Secretary of State

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Business Search - Entity Detail

The California Business Search is updated daily and reflects work processed through Thursday, January 23, 2020. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity. Not all images are available online.

C1209517 THE TRANSPORTATION CORPORATION

Registration Date: 08/26/1983
Jurisdiction: CALIFORNIA
Entity Type: DOMESTIC STOCK
Status: ACTIVE
Agent for Service of Process: KEVIN DALE
 7833 SEPULVEDA BLVD STE D
 VAN NUYS CA 91342
Entity Address: 7833 SEPULVEDA BLVD STE D
 VAN NUYS CA 91342
Entity Mailing Address: 7833 SEPULVEDA BLVD STE D
 VAN NUYS CA 91342

A Statement of Information is due EVERY year beginning five months before and through the end of August.

Document Type	File Date	PDF
SI-NO CHANGE	08/30/2019	
SI-COMPLETE	08/03/2012	
REGISTRATION	08/26/1983	

Exhibit B



State of California Secretary of State

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. CORPORATE NAME

2. CALIFORNIA CORPORATE NUMBER

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. **If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.**

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to **Item 17**.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE CITY STATE ZIP CODE

5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY CITY STATE ZIP CODE

6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4 CITY STATE ZIP CODE

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/ ADDRESS CITY STATE ZIP CODE

8. SECRETARY ADDRESS CITY STATE ZIP CODE

9. CHIEF FINANCIAL OFFICER/ ADDRESS CITY STATE ZIP CODE

Names and Complete Addresses of All Directors, Including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

10. NAME ADDRESS CITY STATE ZIP CODE

11. NAME ADDRESS CITY STATE ZIP CODE

12. NAME ADDRESS CITY STATE ZIP CODE

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS

15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

DATE TYPE/PRINT NAME OF PERSON COMPLETING FORM TITLE SIGNATURE

Exhibit C

12-671416



State of California Secretary of State

S

41

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations) FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

FILED in the office of the Secretary of State of the State of California AUG 03 2012

EC/2X6CC This Space for Filing Use Only

1. CORPORATE NAME

THE TRANSPORTATION CORPORATION

2. CALIFORNIA CORPORATE NUMBER

C1209517

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to item 17.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

Table with 4 columns: Item Number, Address, City, State, ZIP Code. Rows include Principal Executive Office, Principal Business Office, and Mailing Address.

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

Table with 5 columns: Item Number, Title, Name, Address, City, State, ZIP Code. Rows include Chief Executive Officer, Secretary, and Chief Financial Officer.

Names and Complete Addresses of All Directors, including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

Table with 5 columns: Item Number, Name, Address, City, State, ZIP Code. Row includes Kevin Dale as a director.

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY: 0

Agent for Service of Process If the agent is an individual, the agent must reside in California and item 15 must be completed with a California street address, a P.O. Box address is not acceptable.

14. NAME OF AGENT FOR SERVICE OF PROCESS

Kevin Dale

Table with 4 columns: Item Number, Address, City, State, ZIP Code. Row includes agent address for Kevin Dale.

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION AUTOMOBILE PURCHASE AND RESALE

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

Signature line for Kevin Dale, President, with date 8/3/12.

Exhibit D

Wed, Nov 2, 10:16 AM

I must, respectfully, refuse to influence sellers to sign open titles and other blank documents. As a result of following your insistence to get blank documents signed, a seller accused me of working in a gang, and a white collar crimes investigator ordered me halt the practice immediately. I am doing my best to legally complete the forms using the limited resources available. This is all I can say on

for a non RO seller.

Ok

Wed, Nov 7, 3:10 PM

Hey Ryan, please get signatures only on the CA bills of sale instead of filling the whole form out. Thanks

Thu, Nov 15, 4:43 PM

GERTIFICATE OF TITLE

IDENTIFICATION NUMBER JHLRD 789X6 C0381 26	SUFFIX 2006	YEAR HON	MAKE CR-	MODEL WAGON
TYPE OF TITLE STANDARD	DUPLICATE NO. 7	COLLATERAL GY	SENDER ID 42881N	SALES PRICE 2
ISSUE DATE 20.00	ISSUE DATE 04-05-2006	SALES TAX 20	SALES TAX A	STATUS 0

OWNER
**ROBERT J CLAYTON
5 COUNTRYSIDE DR
ROCKAWAY NJ 07866 4313**

OWNER DL/CC #: **C5153 65871 07472**

CONTROL NUMBER **143070H**

State of New Jersey
MOTOR VEHICLE COMMISSION

Robert J. Clayton

SECCION 4 — INFORMACION DEL VEHICULO
Arrendador o Fideicomiso)
El comprador deberá llenar esta sección a fin de proveer su nombre y dirección, aceptar responsabilidad del vehículo/barco y reconocer el millaje reportado. El vendedor deberá llenar esta sección a fin de proveer al comprador su nombre y dirección, declarar la responsabilidad del vehículo/barco y/o declarar el millaje al comprador.
CADA propietario de un vehículo/barco en los Estados Unidos por la letra "Y" (mostrado en el título con una barra "Y") se exige la firma de CADA propietario. La firma de una compañía debe ser precedida por la palabra "CORPORACION" o "COMPANIA".

Hey Ryan, you bought this 10/26 and I said it was ok if you just got title only as customer didn't want to sign other docs but said as long as title gets signed correctly. Customer did more than just sign it. His DL was written in the new lien holder section and he check it off that it's not actual miles making it TMU. Please get signatures only and do not fill out anything else.

Exhibit E

Johnson v. The Transportation Corp, SSX-L-245-19 - Opposition to Plaintiff's Motion for Entry of Default Judgment

Kevin Doherty <KD@greenwaldllp.com>

Wed 9/11/2019 4:48 PM

To: RyanLJohnson@msn.com <RyanLJohnson@msn.com>

Cc: Shivani Patel <sp@greenwaldllp.com>; Kristin Ventry <kv@greenwaldllp.com>

📎 1 attachments (333 KB)

2019.09.11_Def's Opposition to Motion for Default.pdf;

Mr. Johnson,

This firm represents Defendant The Transportation Company in the above matter. Attached for service upon you is a copy of Defendant's Opposition to Plaintiff's Motion for Entry of Default Judgment, filed electronically today with the Court.

A hard copy of the responsive pleading has been mailed to your last known physical address and also sent by overnight mail to you, in care of the Sussex civil division court clerk.

Kevin M. Doherty, Esq.

Member of the Bar: CT, FL, NJ, NY



Representing Employers in all aspects of Employment and Labor Law

New York * New Jersey * Connecticut * Pennsylvania * Florida * California

Tel. 212-644-1310 x 107

Tel. 845-589-9300 x 107

Fax 845-638-2707

kd@greenwaldllp.com - www.greenwaldllp.com

Exhibit F



World Association of Motorcar Inspectors
78 Sparta Avenue, #2B
Newton, NJ 07860-2437

(973) 424-3584

December 26, 2018

Detective James Priorielli



Tel: 570-815-7843

Re: 2013 Chevrolet Avalanche transaction

Dear Detective Priorielli,

I hope this letter finds you and yours well, and having a happy new year.

I'm writing you because my employer, despite me having relayed your order to stop influencing customers to sign open (blank) vehicle ownership documents, is not only resisting but heavily retaliating. Naturally, I did not identify you by name nor otherwise, as I understand you are an undercover investigator. I merely referenced "a white collar crimes investigator" in conversation with my employer and elsewhere for that matter.

To date and in response to my whistleblowing, my employer has demanded that I disclose your identity, cancelled my company debit card, issued countless reprimands regarding my paperwork, and manipulated the schedules of unionized employees to make work more difficult for us. As union president, I filed an NLRB charge (in Newark) requesting an investigation into possible forgery and racketeering. Sharon Chau, NLRB General Attorney, and Eric Pomainowski, NLRB Investigator, advised me to withdraw the NLRB charge and referred me the U.S. Dept. of Justice. I reported to D.O.J. several weeks ago and haven't received a response.

Complicating things further, we have a union certification election coming up on January 4th. Having 100% of cards signed already, we anticipate little to no election problems. We're hoping to leverage our certification, once achieved, to compel our employer to negotiate regarding its improper (and possibly illegal) business practices. The union is saving the aforementioned retaliatory unfair labor practices for another NLRB charge following the election, so as not to stop the election from proceeding.

Additionally, I reported racketeer influenced unlicensed notarizations, as our employer routinely pushes notary public employees in one state to notarize documents in other states where they are not notary publics.

On the one hand, our employer has repeatedly claimed to be altering documents in a way that is not fraudulent. On the other, our employer does not respond to the notary racketeering allegation whatsoever, nor will it allow me to fill documents prior to signings.

I never thought I'd be drafting a collective bargaining contract proposal to include a prohibition on criminal behavior, but that's exactly what I've found myself doing. We are fighting the good fight, potentially at the cost of losing our jobs. As part of this effort, the union is asking customers who are aware of their rights versus our employer's conduct to write letters stating their position to our employer at:

The Transportation Corporation
7833 Sepulveda Blvd, Ste D
Van Nuys, CA 91405

Attn: Jesse DeCrescenzo, Admin VP

Tel: 818-254-8150

CC: World Association of Motorcar Inspectors
78 Sparta Ave, #2-B
Newton, NJ 07860

Attn: Ryan Johnson, President

Tel: 973-424-3584

Happy Holidays,

A handwritten signature in black ink, appearing to read "Ryan L. Johnson", written over a horizontal line.

Ryan L Johnson, WAMI President

Exhibit G

World Association of Motorcar Inspectors
78 Sparta Avenue, #2B
Newton, NJ 07860-2437

(973) 424-3584

ANDOVER
5 LENAPE RD
ANDOVER
NJ

07821-9998
3301950905

12/26/2018 (800)275-8777 8:41 AM

Product Description	Sale Qty	Final Price
---------------------	----------	-------------

First-Class Mail Letter	1	\$0.50
-------------------------	---	--------

(Domestic)
(SCRANTON, PA 18505)
(Weight:0 Lb 0.50 Oz)
(Estimated Delivery Date)
(Friday 12/28/2018)

Total \$0.50

Cash \$0.50

Preview your Mail
Track your Packages
Sign up for FREE @
www.informedelivery.com

All sales final on stamps and postage
Refunds for guaranteed services only
Thank you for your business

Note: Priority Mail Express refund
restrictions in effect for mailing
dates Dec. 22 - 25

HELP US SERVE YOU BETTER

TELL US ABOUT YOUR RECENT
POSTAL EXPERIENCE

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840-5088-0059-002-00019-39940-02

or scan this code with
your mobile device:



or call 1-800-410-7420

YOUR OPINION COUNTS

he transaction

yours well, and having a happy new year.

ployer, despite me having relayed your order to stop
pen (blank) vehicle ownership documents, is not only
Naturally, I did not identify you by name nor otherwise,
ercover investigator. I merely referenced "a white collar
tion with my employer and elsewhere for that matter.

whistleblowing, my employer has demanded that I
I my company debit card, issued countless reprimands
manipulated the schedules of unionized employees to
As union president, I filed an NLRB charge (in Newark)
possible forgery and racketeering. Sharon Chau, NLRB
ainowski, NLRB Investigator, advised me to withdraw
ne the U.S. Dept. of Justice. I reported to D.O.J. several
I a response.

have a union certification election coming up on January
ed already, we anticipate little to no election problems.
rtification, once achieved, to compel our employer to
(and possibly illegal) business practices. The union is
atory unfair labor practices for another NLRB charge
to stop the election from proceeding.

r influenced unlicensed notarizations, as our employer
employees in one state to notarize documents in other
publics.

Bill #: 840-50880059-2-1939940-2
Clerk: 11

Exhibit H

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

**THE TRANSPORTATION CORPORATION,
D.B.A. THE USED CAR CLUB**

and

**WORLD ASSOCIATION OF MOTORCAR
INSPECTORS, WAMI, NEW YORK CITY
REGIONAL LOCAL**

**Cases 22-CA-234445,
22-CA-237032 and
22-CA-237918**

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 22-CA-234445, 22-CA-237032, and 22-CA-237918, which are based on charges filed by World Association of Motorcar Inspectors, WAMI, New York City Regional Local (the Union) against The Transportation Corporation d/b/a The Used Car Club (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. §151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. The charge in Case 22-CA-234445 was filed by the Union on January 22, 2019, and a copy was served on Respondent by U.S. mail on January 23, 2019.
2. The charge in Case 22-CA-237032 was filed by the Union on March 1, 2019, and a copy was served on Respondent by U.S. mail on March 5, 2019.
3. The charge in Case 22-CA-237918 was filed by the Union on March 18, 2019, and a copy was served on Respondent by U.S. mail on March 19, 2019.

4. At all material times, Respondent has been a California corporation engaged in the business of automobile purchasing and sales at various locations throughout the United States, including locations in the State of New Jersey, operating from its Van Nuys, California facility.

5. In conducting its operations described above in paragraph 4, during the preceding 12-month period, Respondent derived gross revenue in excess of \$500,000.

6. During the same period of time described above in paragraph 4 Respondent, in conducting its business operations, sold and shipped from its Van Nuys, California facility, goods, materials and services valued in excess of \$50,000 directly to customers located outside the State of California.

7. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

8. At all material times, Jesse DeCrescenzo held the position of Respondent's Human Resources Manager and Administrative Vice President and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

9. The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time buyers/inspectors who work in all 4 states of New Jersey, New York, Pennsylvania, and Connecticut and who are employed by the Employer operating from its Van Nuys, California facility; excluding all office clerical employees, managers, guards, and supervisors as defined by the Act, and all other employees.

10. On April 25, 2019, the Union was certified as the exclusive collective-bargaining representative of the Unit.

11. At all material times, based on Section 9(a) of the Act, the Union has been the

exclusive collective-bargaining representative of the Unit.

12. On or about December 13, 2018, Respondent issued employee Ryan Johnson (Johnson) a negative performance evaluation.

13. On or about March 18, 2019, Respondent terminated Johnson's employment.

14. Respondent engaged in the conduct described above in paragraphs 12 and 13 because Johnson engaged in protected activity, formed and/or assisted the Union and to discourage employees from engaging in these activities.

15. (a) Since about February 19, 2019, the Union has requested via e-mail that Respondent furnish the Union with contracts incorporated in employee personnel files, including vehicle signing policy and safety/security policy.

(b) The information requested by the Union, as described above in paragraph 15(a) is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) Since about February 19, 2019, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 15(a).

16. (a) About January 25, 2019, the Union, by e-mail, requested that Respondent recognize it as the exclusive collective-bargaining representative of the Unit and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(b) From about April 25, 2019 through about July 11, 2019, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

17. By the conduct described above in paragraphs 12 and 13, Respondent has been discriminating in regard to hire, tenure or terms or conditions of employment of its employees,

thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

18. By the conduct described above in paragraphs 15 and 16, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

19. The unfair labor practice of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

As part of the remedy for Respondent's unfair labor practices alleged above in paragraphs 16, the General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before September 13, 2019, or postmarked on or before September 12, 2019.**

Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-

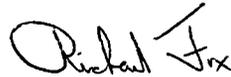
Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **13th day of November, 2019 at 9:30 a.m.** at 20 Washington Place, 5th Floor, Newark, New Jersey 07102 and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed

at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: August 30, 2019



RICHARD FOX, ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 22
20 WASHINGTON PL., 5th FL
NEWARK, NJ 07102-3127

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

**THE TRANSPORTATION CORPORATION,
D.B.A. THE USED CAR CLUB**

and

Case 22-CA-234445

RYAN LAWRENCE JOHNSON, an Individual

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **August 30, 2019**, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

JESSE DECRESCENZO, HR MANAGER **CERTIFIED MAIL**
ADMINISTRATIVE VP
THE TRANSPORTATION CORPORATION
D.B.A. THE USED CAR CLUB
7833 SEPULVEDA BLVD, STE D
VAN NUYS, CA 91405

RYAN DALE **FIRST CLASS MAIL**
7833 SEPULVEDA BLVD.
SUITE D
VAN NUYS, CA 91405

RYAN LAWRENCE JOHNSON **CERTIFIED MAIL**
78 SPARTA AVE, APT 2-B
NEWTON, NJ 07860

August 30, 2019

Date

Isaaida Sanabia, Designated Agent of
NLRB

Name

/s/ Isaaida Sanabia

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 22-CA-234445

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

JESSE DECRESCENZO, HR MANAGER
ADMINISTRATIVE VP
THE TRANSPORTATION CORPORATION
D.B.A. THE USED CAR CLUB
7833 SEPULVEDA BLVD, STE D
VAN NUYS, CA 91405

RYAN DALE
7833 SEPULVEDA BLVD.
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VAN NUYS, CA 91405

RYAN LAWRENCE JOHNSON
78 SPARTA AVE, APT 2-B
NEWTON, NJ 07860

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

CERTIFICATE OF SERVICE

Employer Name: The Transportation Corporation, d.b.a. The Used Car Club

Service on the Employer

Reply to Region 22's Opposition
to the Board's Order to Show Cause

I hereby certify that on 01/25/2020 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were served on the Employer by: (check whichever is applicable)

- e-mail to the email address shown on the petition. jesse@webuycars.com
ryand.webuycars@gmail.com
- facsimile (with the permission of the Employer) to the facsimile number shown on the petition.
- overnight mail to the mailing address shown on the petition.
- hand-delivery to _____ (name of Employer's representative) at the following address: _____

Service on the Other Party Named in the Petition

Reply to Region 22's Opposition
to the Board's Order To Show Cause

I hereby certify that on 01/25/2020 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on EXECUTIVE SECRETARY, NLRB, WASHINGTON, DC VIA E-FILE and: (name of party or parties) by: (check whichever is applicable)

- email to the email address shown on the petition. execsec@nlrb.gov
- facsimile (with the permission of the party) to the facsimile number shown on the petition.
- overnight mail to the mailing address shown on the petition.
- hand-delivery to _____ (name of party's representative) at the following address: _____

Service on the Other Party Named in the Petition

Reply to Region 22's Opposition
to the Board's Order To Show Cause

I hereby certify that on 01/25/2020 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on NLRB, REGION 22, NEWARK, NJ (name of party or parties) by: (check whichever is applicable)

- email to the email address shown on the petition. joanna.pagones@nlrb.gov
- facsimile (with the permission of the party) to the facsimile number shown on the petition.
- overnight mail to the mailing address shown on the petition.
- hand-delivery to _____ (name of party's representative) at the following address: _____



Signature

Ryan Johnson, WAMI NYC President

Name and Title

01/25/2020

Date