

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

NATIONAL LABOR RELATIONS BOARD,	:	
	:	
Petitioner,	:	
	:	
v.	:	No. 18-2834
	:	
PERKINS MANAGEMENT SERVICES COMPANY,	:	
	:	
Respondent.	:	
	:	

**PETITION OF THE NATIONAL LABOR RELATIONS BOARD
FOR ADJUDICATION IN CIVIL CONTEMPT**

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

The National Labor Relations Board (the “Board”) respectfully petitions the Court to adjudge Perkins Management Services Company (“Perkins”) in civil contempt for violating a Judgment of this Court entered on October 4, 2018, by failing to provide UNITE HERE, Local 1 (the “Union”), with requested information that is relevant and necessary to the Union’s performance of its functions as collective-bargaining representative of a unit of employees employed by Perkins..

In support of its petition, the Board, upon information and belief, alleges as follows:

I. Perkins, a North Carolina corporation, provides food and beverage services to colleges and universities, including Chicago State University in Chicago, Illinois.

II. Since on or about July 10, 2017, Perkins has recognized the Union as the exclusive collective-bargaining representative of all full-time and part-time cooks, grill cooks, prep cooks, catering attendants, catering leads, cashiers, lead utility food service workers, utility supervisors, kitchen supervisors, and sous chefs at Chicago State University. This recognition was

subsequently embodied in a collective-bargaining agreement between Perkins and the Union that expired on September 1, 2019.

III. On or around September 25, 2017, the Union requested, in writing, that Perkins furnish it with the following information: an electronic list in Excel format of all employees in the bargaining unit at Perkins at Chicago State University, including each employee's name, social security number, department, location, job title, hire date, rate of pay, status (full time, part time, etc.), address, telephone number, ethnicity, gender, and date of birth.

IV. Perkins failed to furnish the Union with the requested information, and the Union, in response, filed an unfair labor practice charge with the Board on or about November 29, 2017, alleging that such failure violated Section 8(a)(1) and (5) of the National Labor Relations Act, 29 U.S.C. §158(a)(1) and (5).

V. On July 19, 2018, the Board, on default, issued its Decision and Order (Exhibit A) finding that Perkins violated Section 8(a)(1) and (5) of the National Labor Relations Act, *supra*, by failing and refusing to provide the Union with the information it had requested on September 25, 2017. In so finding, the Board determined that the requested information was relevant and necessary to the Union's performance of its functions as the exclusive collective-bargaining representative of the unit of employees described in Paragraph II above. The Board ordered Perkins, among other things, to provide the Union with the information it had requested, with the exception of employees' social security numbers.

VI. On October 4, 2018, this Court entered its Judgment (Exhibit B) enforcing the Board's Decision and Order in full and directing Perkins, its officers, agents, successors and assigns, in pertinent part, to:

1. Cease and desist from:

(a) Refusing to bargain collectively with [the Union] by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of Respondent's unit employees.

(b) 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 actions necessary to effectuate the policies of the Act:

(a) Furnish to the Union in a timely manner the information requested by the Union on September 25, 2017, with the exception of employees' social security numbers.

* * * *

VI. The Judgment has been in full force and effect since its entry, and at all material times Perkins has had notice and knowledge of its terms.

VII. To date, Perkins has still not furnished the Union with the information requested on September 27, 2017, as required by the Seventh Circuit's Judgment.

VIII. By the conduct alleged above in paragraph VII, Perkins has violated and disobeyed, and continues to violate and disobey, this Court's October 4, 2018 Judgment, and, accordingly, is, and continues to be, in civil contempt of this Court.

WHEREFORE, the Board respectfully requests as follows:

1. That this Court forthwith issue an Order requiring Perkins to serve and file sworn answers to the allegations of this petition in which it shall admit or deny or meet by affirmative defense each allegation of said petition, and show cause, if any there be, why it should not be adjudged in civil contempt for disobeying and failing and refusing to comply with the Judgment issued by this Court on October 4, 2018.

2. That following appropriate proceedings, Perkins be adjudged in civil contempt.

3. That upon such adjudication, the Court enter an Order requiring the Perkins, its officers, agents, successors and assigns, to purge themselves of such contempt by:

(a) Fully complying with the Judgment entered by this Court on October 4, 2018, and the Court's contempt adjudication, and not in any way, by action or inaction, engage in, induce, encourage, permit, or condone any violation of said Judgment or contempt adjudication;

(b) Within ten (10) days after entry of the contempt adjudication, fully furnishing to the Union all of the information it had requested on September 15, 2017, with the exception of employees' social security numbers;

(c) Within ten (10) days after receipt of a Notice to Employees, on forms prepared by the Board, posting the notice and the contempt adjudication in conspicuous places where notices to employees are customarily posted for a period of sixty (60) consecutive days, and, within thirty (30) days thereafter, reading said notice to its employees, on working time, at a meeting, or at meetings, called for that purpose. Perkins shall give the Regional Director of the Board's Region 13 office in Chicago at least two weeks' notice to permit a Board agent to attend the meeting, at the option of the Regional Director. The notice shall be signed by an appropriate representative on behalf of Perkins, and shall be maintained in clearly legible condition throughout the 60-day period. Perkins shall further ensure that the notice and the contempt adjudication are not altered, defaced or covered by any other material. Perkins shall also provide the Board's Region 13 with a signed copy of the notice and a certification regarding dates and locations of the posting, and shall give the Board reasonable access onto its premises to inspect the postings.

(d) Within ten (10) days after receipt of the Notice to Employees, mailing a copy of the notice and a copy of the contempt adjudication to all current employees in the unit described in

Paragraph II above and to all former employees in the unit who were employed by Perkins at any time since entry of the Judgment on October 4, 2018. Perkins shall provide the Board's Region 13 with a list of those persons to whom the notice and contempt adjudication were mailed, together with proof of the mailing, within fourteen (14) days of the mailing.

(e) In addition to the physical posting and the mailing of the Notice to Employees and the contempt adjudication, distributing the notice and the contempt adjudication electronically, such as by email, text message, posting on an intranet or an internet site, and/or other electronic means, if Perkins customarily communicates with their employees by such means.

(f) Paying to the Board all costs and expenses, including reasonable attorneys' fees calculated at the prevailing market rate in the District of Columbia, incurred by the Board in the investigation, preparation, presentation and final disposition of this proceeding, including any costs relative to a special master should the Court appoint one; said amount, unless agreed to by the parties, to be fixed by further order of the Court upon submission by the Board of a certified statement of such costs and expenses. Should any dispute arise respecting the Board's submission as to which the Court may determine that a hearing is desirable, the Court, in its discretion, may refer such dispute to a special master, upon such terms as the Court shall determine, for a report and recommendation.

(g) Filing a sworn statement with the Clerk of this Court, and a copy thereof with the Director of the Board's Region 13, within fifteen (15) days after the order of adjudication and again upon termination of the posting period, showing what steps have been taken to comply with the Court's directives.

4. That in order to assure against violations of this Court's Judgment and this contempt adjudication, the Court shall impose against Perkins a prospective fine of \$20,000.00 for each

and every future violation of the Judgment or this contempt adjudication, and a further fine of \$200.00 per day for each day the Court finds the violation(s) have continued. The Court shall also impose a fine of \$1,000.00 against any officer, agent, or representative of Perkins, who, in active concert and participation with Perkins and with notice and knowledge of the Judgment or this contempt adjudication, violates the Judgment or this contempt adjudication, and a further fine of \$100.00 per day for each day the Court finds the violation(s) to have continued.

5. That this Court take such other and further action and grant such other relief as may be just, reasonable and proper to assure compliance with this Court's Judgment and as this contempt proceeding may require.

NATIONAL LABOR RELATIONS BOARD

William G. Mascioli
Assistant General Counsel
(202) 273-3746
Bill.Mascioli@nlrb.gov

David H. Mori
Supervisory Attorney
(202) 273-3746
David.Mori@nlrb.gov

/s/ William R. Warwick
William R. Warwick
Trial Attorney
Tel: (202) 273-3849
Fax: (202) 273-4244
William.Warwick@nlrb.gov

Contempt, Compliance and Special Litigation Branch
1015 Half Street, S.E. – 4th Floor
Washington, D.C. 20003

Dated at Washington, D.C.,
this 24th day of April, 2020

CERTIFICATE OF SERVICE

I hereby certify that on April 24th, 2020, I electronically filed the foregoing documents with the Clerk of the Court for the United States Court of Appeals for Seventh Circuit by using the CM/ECF system.

I further certify that on April 24th, 2020 a copy of the foregoing documents was emailed and mailed, by first-class U.S. Mail postage prepaid and properly addressed to the following:

Perkins Management Services Company
C/O CT Corporation System (Registered Agent)
160 Mine Lake Ct, Suite 200
Raleigh, NC 17615-6417

Perkins Management Services Company
7730 England Street, Suite A
Charlotte, NC 28273-5919

Nicholas M. Perkins, President
Perkins Management Services
P.O. Box 35549
Charlotte, NC 28235-5549

Tonya Ford, HR Director
Perkins Management Services
Tonya@Perkinsusa.com

Barry McCauley, VP
Perkins Management Services
BMccauley@perkinsmanagement.com

/s/ William R. Warwick
William R. Warwick
Trial Attorney
NLRB, Contempt Compliance and
Special Litigation Branch
1015 Half Street, S.E. – 4th Floor
Washington, D.C. 20003
(202) 273-3849
William.Warwick@nlrb.gov

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

**Perkins Management Services Company and UNITE
HERE Local 1.** Case 13–CA–210664

July 19, 2018

DECISION AND ORDER

BY MEMBERS PEARCE, MCFERRAN, AND KAPLAN

The General Counsel seeks a default judgment in this case on the ground that Perkins Management Services Company (the Respondent) has failed to file an answer to the complaint. Upon a charge filed on November 29, 2017, by UNITE HERE Local 1 (the Union), the General Counsel issued a complaint on March 6, 2018, against the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. The Respondent failed to file an answer.

On June 8, 2018, the General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. Thereafter, on June 12, 2018, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by March 20, 2018, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated May 29, 2018, notified the Respondent that unless an answer was received by June 5, 2018, a motion for default judgment would be filed. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent has been a corporation with an office and place of business in Chicago, Illinois, and has been engaged in the business of providing food and beverage services to colleges and universities.

During the last calendar year, the Respondent, in conducting its business operations described above, purchased and received at its Chicago, Illinois, facility goods valued in excess of \$50,000 directly from points outside the State of Illinois.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Barry McCauley, Jr.—Executive Vice President

Tonya Ford—Human Resources Director

The following employees of the 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 and part-time cooks, grill cook, prep cooks, catering attendants, catering leads, cashiers, lead utility, FSW, utility supervisors, kitchen supervisors, and sous chefs, at Chicago State University located 9501 Martin Luther King Drive, Chicago, Illinois excluding managers, confidential and clerical employee, office/professional employees and guards as defined in the National Labor Relations Act.

Since about July 10, 2017, and at all material times, the Respondent has recognized the Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in a collective-bargaining agreement effective from August 1, 2015, to September 1, 2019.

At all times since July 10, 2017, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about September 25, 2017, the Union has requested in writing that the Respondent furnish it with the following information: an electronic list in Excel format of all employees in the bargaining unit at Perkins at Chicago State University, including each employee's name, social security number, department, location, job title, hire

date, rate of pay, status (full time, part time, etc.), address, telephone number, ethnicity, gender, and date of birth.

With the exception of employee social security numbers, the information requested by the Union is necessary for and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.¹

Since about September 25, 2017, the Respondent has failed and refused to furnish the Union with the requested information described above.

CONCLUSION OF LAW

By the conduct described above, the 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)(5) and (1) of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(5) and (1) by failing and refusing to furnish the Union with certain information that is relevant and necessary to its role as the exclusive collective-bargaining representative of the unit employees, we shall order the Respondent to furnish the Union with the information it requested since about September 25, 2017, with the exception of employees' social security numbers.

ORDER

The National Labor Relations Board orders that the Respondent, Perkins Management Services Company, Chicago, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with UNITE HERE Local 1 (the Union) by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.

(b) 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.

¹ In the absence of a showing here of their potential or probable relevance, we deny the General Counsel's motion with respect to the Respondent's failure to provide social security numbers, and remand that issue to the Region for further appropriate action. *Bookbinder's Seafood House, Inc.*, 341 NLRB 14, 15 fn. 1 (2004).

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish to the Union in a timely manner the information requested by the Union on September 25, 2017, with the exception of employees' social security numbers.

(b) Within 14 days after service by the Region, post at its facility in Chicago, Illinois, copies of the attached notice marked "Appendix."² 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 September 25, 2017.

(c) 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.

Dated, Washington, D.C. July 19, 2018

Mark Gaston Pearce, Member

Lauren McFerran, Member

Marvin E. Kaplan, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

PERKINS MANAGEMENT SERVICES COMPANY

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APPENDIX
NOTICE TO EMPLOYEES
POSTED BY 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 refuse to bargain collectively with UNITE HERE Local 1 (the Union) by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's 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 furnish to the Union in a timely manner the information it requested on September 25, 2017, with the exception of employee social security numbers.

PERKINS MANAGEMENT SERVICES COMPANY

The Board's decision can be found at www.nlr.gov/case/13-CA-210664 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 FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

FINAL JUDGMENT

October 4, 2018

Before
DIANE P. WOOD, *Chief Judge*

No. 18-2834	NATIONAL LABOR RELATIONS BOARD, Petitioner v. PERKINS MANAGEMENT SERVICES COMPANY, Respondent
Originating Case Information:	
Agency Case No: 13-CA-210664 National Labor Relations Board	

The following is before the court: **APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD**, filed on August 23, 2018, by counsel for Petitioner.

IT IS ORDERED that the motion for summary enforcement is **GRANTED** and the attached judgement is **ENFORCED**.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

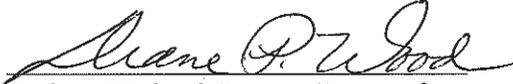
NATIONAL LABOR RELATIONS BOARD	:	
	:	No.
Petitioner	:	
v.	:	
	:	Board Case No.:
PERKINS MANAGEMENT SERVICES COMPANY	:	13-CA-210664
	:	
Respondent	:	

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 July 19, 2018, in Case No. 13-CA-210664, reported at 366 NLRB No. 130, 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 Services Company, Chicago, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Refusing to bargain collectively with UNITE HERE Local 1 (the Union) by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.
 - (b) 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) Furnish to the Union in a timely manner the information requested by the Union on September 25, 2017, with the exception of employees' social security numbers.
 - (b) 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 September 25, 2017.

- (c) 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 refuse to bargain collectively with UNITE HERE Local 1 (the Union) by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's 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 furnish to the Union in a timely manner the information it requested on September 25, 2017, with the exception of employee social security numbers.

PERKINS MANAGEMENT SERVICES COMPANY

The Board's decision can be found at www.nlr.gov/case/13-CA-210664 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.

