



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

August 12, 2020

Clerk, United States Court of
Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1790

*Re: NLRB v. Silver Services Group Corp.
and Precise Services Corp., alter ego and
successor, Board Case No. 22-CA-230596*

Dear Ms. Dodzuweit:

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

Please serve a copy of the application on Respondent, whose 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.

Very truly yours,

/s/ David Habenstreit

David Habenstreit
Assistant General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570
(202) 273-2960

cc & documents to: Service List

SERVICE LIST

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RESPONDENT:

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RESPONDENT:

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CHARGING PARTY:

Laborers Int'l Union of North
America, Local 79
104 Interchange Plaza, Ste. 301
Cranbury, NJ 08831-2038

Phone: (609) 860-9223

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	
SILVER SERVICES GROUP CORP. AND PRECISE	:	Board Case No.:
SERVICES CORP., ALTER EGO AND SUCCESSOR	:	22-CA-230596
	:	
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 Third 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 Silver Services Group Corp. and Precise Services Corp., alter ego and successor (“Respondent”). The Board is entitled to summary enforcement of its order in full because Respondent failed to file with the Board exceptions to the administrative law judge’s decision. 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 New Jersey. The Board's final order issued on June 22, 2020.

B. Proceedings Before the Board

1. On March 28, 2019, the Regional Director for Region 22 of the Board issued a Complaint and Notice of Hearing in Case No. 22-CA-230596, charging Respondent with certain violations of the Act. Respondent filed an answer on April 1, 2019.

2. Following a hearing before Administrative Law Judge Jeffery Gardner, a decision was issued on May 11, 2020, finding that Respondent had violated the Act and recommending that an order be issued requiring that the Respondent cease and desist from the unfair labor practices found, and take certain affirmative action to remedy those unfair labor practices, including posting an appropriate notice.

3. On May 11, 2020, the Board issued an order transferring the proceeding to the Board and notifying the Respondent that the Board must receive any exceptions to the administrative law judge's decision by June 8, 2020.

4. Section 10(c) of the Act (29 U.S.C. § 160(c)) provides that "if no exceptions are filed [with the Board] within twenty days after service [of the administrative law judge's decision] upon the parties, or within such further period as the Board may authorize, such recommended order shall become the order of the Board and become effective as therein prescribed." Section 102.46 and 102.48

of the Board's Rules and Regulations (29 C.F.R. 102.46 and 102.48) implement this provision and provide that, in the event no exceptions are filed within 28 days, the decision of the administrative law judge shall be adopted by the Board and all objections and exceptions thereto are waived for all purposes.

5. Respondent did not file exceptions with the Board.

6. In the absence of any exceptions to the administrative law judge's decision, on June 22, 2020, the Board issued an order adopting the administrative law judge's findings and conclusions and directing the Respondent to take the action set forth in the Judge's recommended order.

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

The Board is entitled to summary entry of a judgment enforcing its order because, by failing to file exceptions with the Board challenging the administrative law judge's decision, the Respondent failed to raise any issues before the Board.

Section 10(e) of the Act (29 U.S.C. § 160(e)) provides that "no objection that has not been urged before the Board . . . shall be considered by the court, unless the failure or neglect to urge such objection shall be excused by extraordinary circumstances." This limitation is jurisdictional and its application is mandatory. *Woelke & Romero Framing v. NLRB*, 456 U.S. 645, 666-67 (1982). Interpreting this requirement, this Court and other circuits have consistently held that a respondent's failure to file any exceptions before the Board entitles the

Board, absent extraordinary circumstances, to summary entry of a judgment enforcing its order. *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 340-41 (3d Cir. 1984); *NLRB v. Int'l Union of Operating Eng'rs, Local 86*, 357 F.2d 841, 846-47 (3d Cir. 1966). Accord, e.g., *NLRB v. Tri-State Warehouse & Distrib.*, 677 F.2d 31, 31 (6th Cir. 1982); *NLRB v. Pugh & Barr, Inc.*, 194 F.2d 217, 218-21 (4th Cir. 1952). No extraordinary circumstances are present here.

WHEREFORE, the Board respectfully requests that the Court take jurisdiction of the proceedings, serve notice of the filing of this application upon Respondent, and enter judgment summarily enforcing the Board's order in full. A proposed judgment is attached.

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

Dated in Washington, D.C.
this 12th day of August, 2020

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD :
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 :
 Petitioner : No.
 v. :
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 SILVER SERVICES GROUP CORP. AND PRECISE : Board Case No.:
 SERVICES CORP., ALTER EGO AND SUCCESSOR : 22-CA-230596
 :
 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, Silver Services Group Corp. and Precise Services Corp., alter ego and successor, its officers, agents, successors, and assigns, enforcing its order dated June 22, 2020, in Case No. 22-CA-230596, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent Silver Services Group Corp. and Precise Services Corp., alter ego and successor, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

BY THE COURT

Circuit Judge

DATED:

NATIONAL LABOR RELATIONS BOARD

v.

SILVER SERVICES GROUP CORP. AND
PRECISE SERVICES CORP., ALTER EGO AND SUCCESSOR

ORDER

Silver Services Group Corp. and Precise Services Corp., alter ego and successor, its officers, agents, successors, and assigns shall

1. Cease and desist from
 - (a) Refusing to bargain collectively in good faith with the Union, Laborers Local 79, Laborers International Union of North America.
 - (b) In any other 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) On request, bargain in good faith with Laborers Local 79, Laborers International Union of North America as the exclusive bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment, and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time laborers employed by Respondent at its New York and/or New Jersey jobsites, but excluding office clerical employees, temporary employees, professional employees, drivers, concrete workers, foremen, guards and supervisors as defined in the Act, and all other employees.
 - (b) Within 14 days after service by the Region, post at its Hackensack, New Jersey and any New York, New York facilities, copies of the attached notice marked "Appendix" in both English and Spanish. Copies of the

notice, on forms provided by the Regional Director for Region 22, 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, the 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 either of the facilities 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 January 22, 2018.

- (c) Within 21 days after service by the Region, file with the Regional Director for Region 22 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 fail and refuse to recognize and bargain with Laborers Local 79, Laborers International Union of North America (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit.

WE WILL NOT in any other manner interfere with, restrain or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, on request, bargain in good faith with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following bargaining unit:

All full-time and regular part-time laborers employed by us at our New York and New Jersey jobsites, but excluding office clerical employees, temporary employees, professional employees, drivers, concrete workers, foremen, guards and supervisors as defined in the Act, and all other employees.

SILVER SERVICES GROUP CORP.

(Employer)

Dated _____ By _____
(Representative) (Title)

PRECISE SERVICES CORP.

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

20 Washington Place, 5th Floor, Newark, NJ 07102-3110
(973) 645-2100, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at www.nlr.gov/case/22-CA-230596 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.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF
POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER
MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS
PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE
OFFICER: (862) 229-7055

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD :
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 Petitioner : No.
 v. :
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 :
 SILVER SERVICES GROUP CORP. AND PRECISE : Board Case No.:
 SERVICES CORP., ALTER EGO AND SUCCESSOR : 22-CA-230596
 :
 :
 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 parties at the addresses listed below:

Eugene Errico, Controller
Silver Services Group Corp.
340 S. River St.
Hackensack, NJ 07601-6815

Michael T. Scaraggi
Oransky, Scaraggi & Borg, P.C.
175 Fairfield Ave., Ste 1A
West Caldwell, NJ 07006-6415

Eugene Errico
Silver Services Group Corp. and
Precise Services Corp.
411 Hackensack Ave.
Hackensack, NJ 07601

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

Dated at Washington, D.C.
this 12th day of August, 2020