

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

EDWARDS PAINTING, INC.

and

**Cases 19-CA-116399
 19-CA-122730**

**INTERNATIONAL UNION OF PAINTERS AND
ALLIED TRADES DISTRICT COUNCIL 5,
affiliated with INTERNATIONAL UNION OF
PAINTERS AND ALLIED TRADES**

**GENERAL COUNSEL’S REPLY TO RESPONDENT’S NOVEMBER 30, 2020
RESPONSE TO THE BOARD’S NOVEMBER 17, 2020 ORDER TO SHOW CAUSE**

The General Counsel, by the undersigned Counsel for the General Counsel (“CGC”), pursuant to §§ 102.24(b), 102.50, and 102.56(c) of the Board’s Rules and Regulations, Series 8, as amended, files with the National Labor Relations Board (the “Board”) this Reply to Edward Painting’s (“Respondent’s”) November 30, 2020 Response to the Board’s November 17, 2020 Order to Show Cause (“OSC”) as to why General Counsel’s November 12, 2020 Motions to Transfer and Continue Matter before the Board and for Default Judgment (“Motions”) should not be granted.

1. The Board’s November 17, 2020 OSC directed any party seeking to show cause why the General Counsel’s Motions should not be granted to do so in writing, filed with the Board in Washington, D.C., on or before December 1, 2020 (with affidavit of service on the parties to this proceeding). (Exhibit 1). Although Respondent filed a two-page “response” of sorts to the OSC via facsimile with Region 19’s sub-Regional office in Portland, Oregon, again contesting the merits of the underlying matter (Exhibit 2), Respondent failed to file any document, including a proper response, with the Board in Washington, D.C. on or before December 1, 2020, as directed. Additionally, contrary

to the Board's OSC, the response did not contain an affidavit of service to the Charging Party Union, International Union of Painters and Allied Trades District Council 5, affiliated with International Union of Painters and Allied Trades. For these reasons, CGC urges the Board to reject Respondent's improperly lodged response as deficient as to filing and service, and grant CGC's November 12, 2020 motions.

2. Assuming, *arguendo*, that the Board were to accept Respondent's filing with the sub-Regional office as an adequate response properly filed and served, CGC further urges the Board to grant CGC's November 12, 2020 Motions and reject Respondent's response substantively. Simply stated, Respondent's November 30, 2020 filing does not remedy its two prior untimely and deficient responses to the Compliance Specification; the response once again attempts to relitigate the merits of the underlying case without showing any good cause to justify its continued failure to properly answer the Compliance Specification in compliance with the Board's Rules and Regulations.

3. Based on the continued failure of Respondent to file an appropriate amended answer under § 102.56 of the Board's Rules, CGC respectfully submits that the Board should deem all the allegations of the Compliance Specification to be true and issue an appropriate default judgment order. *Michael Cetta, Inc. d/b/a Sparks Restaurant*, 370 NLRB No. 46 (November 9, 2020) (partial summary judgement granted due to respondent attempting to relitigate the underlying case and failing to cure a deficient answer after being notified of deficiency under to § 102.56(b)); *Pas LLC*, 364 NLRB No. 139 (2016); *Met Hotel Detroit/Troy*, 360 NLRB No. 75 (2014); *Lintrac Services, Inc.*, 359 NLRB No. 153 (2013).

NOW THEREFORE, in accordance with §§ 102.24, 102.50, and 102.56 of the Board's Rules, CGC respectfully requests that the Board grant its November 12, 2020 Motions and: 1) transfer and continue this matter before it; and 2) issue a default judgment in the above-captioned cases, ruling that the allegations of the Compliance Specification are deemed admitted to be true, and issue a Supplemental Decision and Order containing such finding of facts, conclusions of law, and order in accordance with the allegations of the Compliance Specification.

Dated at Seattle, Washington, this 3rd day of December, 2020.

/s/ Irene H. Botero

/s/ Devon Blevins

Irene H. Botero and Devon Blevins

Counsel for the General Counsel

National Labor Relations Board

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Attachments

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**ORDER TRANSFERRING PROCEEDING TO THE BOARD
and
NOTICE TO SHOW CAUSE**

On November 12, 2020, the General Counsel filed with the National Labor Relations Board Motions to Transfer and Continue Matter Before the Board and for Default Judgment, on the ground that the Respondent has failed to file a timely amended answer to the Compliance Specification that comports with the specificity required by the Board's Rules and Regulations. Having duly considered the matter,

IT IS ORDERED that the above-entitled proceeding be transferred to and continued before the Board in Washington, D.C., and the hearing scheduled for December 15, 2020 be postponed indefinitely.

NOTICE IS GIVEN that any party seeking to show cause why the General Counsel's motions should not be granted must do so in writing, filed with the Board in Washington, D.C., on or before December 1, 2020 (with affidavit of service on the parties to this proceeding). If a response to this Notice to Show Cause is filed, a party may file a reply to the response

within 7 days of receipt of the response (with affidavit of service on the parties to this proceeding), but further responses will not be permitted except where there are special circumstances warranting leave to file such a response.

Dated, Washington, D.C., November 17, 2020.

By direction of the Board:

Roxanne L. Rothschild

Executive Secretary

NLRB, Subregion 36

Fx. 503-326 5387

ATT: Kristy Kennedy

Edwards Painting Inc

16580 Hunter Ave.

Oregon City, OR 97045

Fax 503-650-3644

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Nov. 28, 2020

NLRB

Region 19

915 2nd Ave. STE 2948

Seattle, WA 98174-1006

Fax 206-220-6305

Irene H. Botero

Devon Blevins

Re: Edwards Painting, Inc.

Cases 19-CA-116399

19-CA-122730

EDWARDS PAINTING ANSWER TO:

Motions to Transfer and continue matter before
The Board and for default judgment

Regarding the matters brought forward on the "Motions to Transfer and Continue Matter before The Board", as has been entered in to the record previously, Roben White, Gustavo Garcia and Roman Ramos came by the residence of the owner of Edwards Painting and talked to his wife, they were wearing union t-shirts, they claimed they were seeking employment. Mrs. Edwards informed them that Edwards Painting was not seeking any new employees at this time, but she did go ahead and give them the phone number that they would have to call to apply for employment with Edwards Painting. They never ever made any call what so ever. So as far as monies that Edwards Painting calculates that it owes White, Garcia and Ramos, it equates to zero.

Regarding the claim of monies being owed to Craig Winslow by Edwards Painting, as also stated before, Winslow quit Edwards Painting to go work at another job where he lasted one week and then came back to Edwards Painting wanting to be re-instated. Edwards Painting told Winslow there was no chance of coming back to work after having quit the company with absolutely no prior notice at all. Therefore the calculations of Winslow's monies owed by Edwards Painting amounts to zero.

Scott Oldham and Wyatt McMinn worked for Edwards Painting until such a time that they realized that Edwards Painting had no intentions of terminating them, so they began willfully and criminally destroying property to try to get fired. It got so bad that Oldham screamed at the front door entrance of the Edwards residence "why don't you just fire us union pukes". As it progressed, Edwards Painting was directed to

immediately remove Oldham and McMinn from the job site. So Edwards Painting's calculations for monies that might be owed to McMinn and Oldham would be zero.

Edwards Painting was scheduled to have an arbitration hearing with an NLRB hearings officer on Dec. 15, 2020, but when the painters union and their lawyers realized that Edwards Painting was aware of the fact that all of the complainants other than Winslow and McMinn and possibly White, were full time employees of the painters union itself and were already being paid \$70,000 or \$80,000 yearly and had missed no wage earnings at all they immediately the next day cancelled the arbitration meeting.

Edwards Painting would still prefer to just get this settled as opposed to dragging it out for another year or two.

Edwards Painting has of to date still not been provided with any documentation of any kind of proof of entities where any of the above complainants applied for work, un-employment benefits or any proof that they were not receiving income during the time they wanted Edwards Painting to pay them a wage, while they were not being able to find employment elsewhere.

Garcia and Ramos have been trying to get monies from Edwards Painting for several years while never disclosing they were being paid for full time employment, seems to be a little bit in the nature of intent to defraud in my mind, but maybe it is acceptable as far as the legal system is concerned.

But anyway to get to the heart of the matter, if anyone actually wants to receive any monies from Edwards Painting they have to be willing to negotiate in good faith with Edwards Painting.

Sean Carter was originally included as a complainant in this matter, but Edwards Painting settled with Carter three or four years ago for \$7,500.

C. Gene Edwards

C. Gene Edwards, Pres.
Edwards Painting, Inc.

State of Oregon

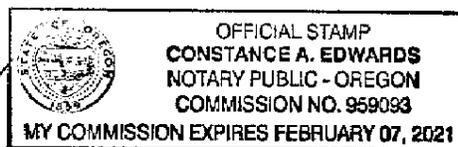
County of Clackamas

On Nov. 29, 2020

C. Gene Edwards

Personally appeared before me, a Notary Public, the above named and acknowledged the foregoing to be his voluntary act and deed.

Notary *Constance A. Edwards*
My commission expires on: *Feb. 17, 2021*



CERTIFICATE OF SERVICE

I hereby certify that a copy of General Counsel's Reply to Respondent's November 30, 2020 Response to the Board's November 17, 2020 Order to Show Cause was served on the 3rd day of December, 2020, on the following parties:

Efile:

Roxanne Rothschild, Executive Secretary
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