



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

December 7, 2020

Molly Dwyer, Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *NLRB v. United States Postal Service*, Board
Nos. 19-CA-234857, 19-CA-242254, 19-CA-
242271, 19-CA-242595 and 19-CA-242596

Ms. Dwyer:

I am enclosing an application of the National Labor Relations Board for enforcement of its order in this case, and a proposed judgment. Respondent expressly consented to the entry of this judgment in a stipulation contained in the record. I am also transmitting the certified record, including the order and the underlying agreement.

Please serve a copy of the application on Respondent, whose address appears 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.
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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	No.
Petitioner	:	
v.	:	Board Case Nos.:
	:	19-CA-234857
	:	19-CA-242254
UNITED STATES POSTAL SERVICE	:	19-CA-242271
	:	19-CA-242595
Respondent	:	19-CA-242596

APPLICATION FOR ENFORCEMENT OF AN ORDER
OF THE NATIONAL LABOR RELATIONS BOARD
UPON STIPULATION OF THE PARTIES FOR CONSENT JUDGMENT

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth 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 enforcement of its order against United States Postal Service (“Respondent”), issued in Board Case Nos. 19-CA-234857, 19-CA-242254, 19-CA-242271, 19-CA-242595 and 19-CA-242596, on November 24, 2020. The Board is entitled to enforcement because Respondent has expressly consented to entry of this judgment in a stipulation that Respondent entered into during the proceedings before the Board. 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 activities

giving rise to this proceeding occurred in Oregon. The Board's final order issued on November 24, 2020.

**B. The Respondent Entered into a Stipulation
Providing for Entry of an Order by the
Board and a Consent Judgment by the Court**

1. The Board entered an order against Respondent pursuant to a stipulation authorizing the Board to enter an order embodying its terms. The Board's order does not vary from those terms.

2. Paragraph VI of the stipulation authorized the Board to apply to an appropriate U.S. Court of Appeals for a judgment enforcing the Board's order, and provided that Respondent "waives all defenses to the entry of the judgment"

3. In support of this application, the Board is certifying and filing with this Court the record of proceedings before the Board, including the pleadings, stipulation, findings of fact, and order of the Board.

WHEREFORE, the Board respectfully requests that the Court, after serving a copy of this application upon Respondent, enter a consent judgment enforcing the Board's order in full. A copy of the proposed consent judgment is attached.

Dated in Washington, D.C.
this 7th day of December, 2020

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

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
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JUDGMENT

THIS CAUSE was submitted upon the application of the National Labor Relations Board for the enforcement of a certain order on consent issued by it against Respondent, United States Postal Service, its officers, agents, successors, and assigns, on November 24, 2020, in Board Case Nos. 19-CA-234857, 19-CA-242254, 19-CA-242271, 19-CA-242595 and 19-CA-242596; and upon the record in that proceeding, certified and filed in this Court enforcing the order.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by the United States Court of Appeals for the Ninth Circuit that the order of the National Labor Relations Board be, and the same is hereby enforced; and that the Respondent, United States Postal Service, its officers, agents, successors, and assigns, shall abide by and perform the directions of the Board set forth in its order. (See Attached Order and Notice)

Endorsed, Judgment Filed and Entered

/s/ Molly Dwyer
Molly Dwyer
Clerk

NATIONAL LABOR RELATIONS BOARD

v.

UNITED STATES POSTAL SERVICE

ORDER

United States Postal Service, at the MVS department located at 7007 NE Cornfoot Road, Portland, Oregon (the Portland MVS department), its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Failing and refusing to provide the Union with information in its possession or control that is relevant and necessary to its role as the bargaining representative of unit employees and/or refusing to request that information from third parties.
 - (b) Delaying in providing the Union with information in its possession or control that is relevant and necessary to its role as the bargaining representative of unit employees and/or delaying in either requesting or providing that information or the responses to those requests for information, from third parties.
 - (c) Failing, refusing, and/or delaying in informing the Union that the information that the Union had requested, which is relevant and necessary to its role as the bargaining representative of unit employees, is not available or does not exist.
 - (d) Providing the Union with misleading, incomplete, and/or inaccurate information as a means of refusing and/or delaying in providing the Union with the information it has requested.
 - (e) In any like or related manner interfering with employees' rights under Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) To the extent not already provided, provide the Union with accurate, legible, and complete copies of all the relevant requested information as described in the consolidated complaint that issued on April 14, 2020. If the Respondent is unable to locate or secure any of the requested

information, the Respondent will promptly provide an explanation to the Union as to the reasons for the unavailability of such information.

- (b) Waive, for 30 days following the issuance of the Board's Order or the Respondent providing the information, whichever is longest, any contractual deadlines to allow grievances related to the requested information where the Union missed those deadlines in whole or part due to the Respondent's delay.
- (c) Upon request, provide the Union with information necessary and relevant to fulfill its statutory obligation as the exclusive bargaining representative. The Respondent will provide to union stewards of any union with which the Respondent has an exclusive collective-bargaining relationship at the Portland MVS department the name of the manager or supervisor who is designated to receive union requests for information in the MVS department and when that designated manager or supervisor has changed.
- (d) The MVS manager or acting MVS manager, at the Respondent's Portland MVS department, will maintain an information request log that tracks when all requests for information are made, by whom the requests are made, a description of the information sought, to whom the requests are made, the information provided in response to the requests for information, and the dates the Respondent responds to the requests for information. The Respondent will provide all unions who represent employees at the Portland MVS department with reasonable access to the logs, described above, that pertain to their information requests.
- (e) Require its legal or labor relations department to conduct semi-annual audits of the above-referenced logs at the Respondent's Portland MVS department, to ensure that the information requests of any union which represents employees at the Portland MVS department are being handled in a timely and appropriate manner and to ensure the logs are being properly maintained.
- (f) Schedule annual training sessions on how to timely and appropriately respond to information requests and how to properly maintain information logs and require that all supervisors and managers at the Respondent's Portland MVS department attend the training.
- (g) Regarding the training sessions above in paragraph 2(f), within 180 days of the approval of this Agreement, the Respondent will hold at least two mandatory trainings for all supervisors and managers at the Respondent's MVS department, regardless of any prior training

received. The Respondent will incorporate the information request training into its regular training program for new supervisors and managers at the Portland MVS department.

- (h) Within 14 days of the service by the Region, post at the Respondent's Portland MVS department located at 7007 NE Cornfoot Road in Portland, Oregon, copies of the attached Notice to Employees (Notice) marked "Appendix A," on forms provided by Region 19, after being signed by the Respondent's authorized representative. The Notice shall be posted by the Respondent for a period of sixty (60) days, in conspicuous places, including all places where notices to employees are normally posted.
- (i) Within twenty (20) days of the issuance of the Board's Order, file with the Regional Director of Region 19 of the Board a sworn affidavit from a responsible official describing with specificity the manner in which the Respondent has complied with the terms of the Board's Order, including the locations of the posted copies of the Notice.

APPENDIX A
NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER
AND A CONSENT JUDGMENT BY ANY APPROPRIATE
UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose a representative 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 interfere with, restrain, or coerce you in the exercise of the above rights.

American Postal Workers Union, Portland Area Local 128, AFL-CIO (the Union), is the exclusive collective-bargaining representative of the following unit of employees working in the Oregon and Washington communities of Portland, Astoria, Aurora, Banks, Battleground, Beaverton, Boring, Brush Prairie, Canby, Columbia City, Estacada, Gladstone, Gresham, Hillsboro, Kelso, Lake Oswego, Longview, Marylhurst, McMinnville, Moro, Mosier, Newberg, Oregon City, Rufus, St. Helens, Sherwood, The Dalles, Troutdale, Tualatin, Wasco, West Linn, Wilsonville, Woodburn, and Woodland:

All Maintenance Employees, Motor-Vehicle Employees, Postal Clerks, Mail Equipment Shops Employees, Material Distribution Centers Employees, Operating Services and Facilities Services Employees; but excluding all managerial and supervisory personnel, professional employees, confidential employees, Postal Inspection Service employees, rural letter carriers, mail handlers, and letter carriers.

WE WILL NOT refuse to timely notify the Union that information does not exist after it requests information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT unreasonably delay in providing the Union with information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT refuse to provide the Union with information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT provide incomplete, inaccurate, or misleading responses to information requests made by the Union, where the information requested is relevant and necessary to its role as your bargaining representative.

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on May 3 and May 15, 2019; specifically, “the fair cost comparison the Service conducted with the Union concerning contracting out shuttle of mail from Target, Velotec, and Daddies Board Shop to the New Portland MOU.”

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on May 3 and May 15, 2019; specifically, “any and all Extra Trip Authorizations PS Form 5397 and the corresponding PS Form 5429 issued to HCRs for transportation of mail from Target, Velotec, and Daddies Board Shop to the New Portland MOU.”

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on May 3 and May 15, 2019; specifically, “the Contract between the Postal Service and the HCR's concerning the transportation of mail from Target, Velotec, and Daddies Board Shop and the New Portland MOU.”

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on May 3 and May 15, 2019; specifically, “the Notification sent to the APWU concerning contracting out of shuttling mail transportation of mail from Target, Velotec, and Daddies Board Shop to the New Portland MOU.”

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on March 21, April 10, and May 15, 2019; specifically, “the Contract between the Postal Service and the HCR's concerning the shuttle of mail between the New Portland MOU and Amazon Facilities.”

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on March 21, April 10, and May 15, 2019; specifically, “the Notification sent to the APWU concerning contracting out of shuttling mail between the New Portland MOU and the Amazon Facilities.”

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on March 21, April 10, and May 15, 2019; specifically, “the fair cost comparison the Service conducted with the Union concerning contracting out shuttle of mail between the New Portland MOU and the Amazon Facilities.”

WE WILL, to the degree we have not already, provide the Union with a complete, accurate, and legible copy(s) of the information it requested on November 9, 2018, and re-requested on March 21, April 10, and May 15, 2019; specifically, “any and all Extra Trip Authorizations PS Form 5397 and the corresponding PS Form 5429 issued to HCRs for performing shuttle of mail between the New Portland MOU and Amazon Facilities.”

WE WILL, to the degree we have not already, upon request, provide the Union with complete, accurate, and legible copies of any other information requested by that Union and which were related to the charges in Cases 19-CA-234857, 19-CA-242254, 19-CA-242271, 19-CA-242595, and 19-CA-242596.

WE WILL waive, for 30 days following the issuance of the Board’s Order or the Employer providing the information, whichever is longest, any contractual deadlines to allow the Union to file grievances related to the requested information where the Union missed those deadlines in whole or part due to the Respondent’s delay.

WE WILL maintain at our MVS department, located at 7007 NE Cornfoot Road in Portland, Oregon (the “Portland MVS department”), a log in which we will immediately record each information request that any union at this facility with which we have an exclusive collective-bargaining relationship makes, either orally or in writing, at the Portland MVS department.

WE WILL provide all unions who represent employees at the Portland MVS department with reasonable access to these logs that pertain to their information requests.

WE WILL provide annual training for each manager and supervisor who is designated to receive union requests for information at our Portland MVS department. Such training will encompass how to maintain the log and how to tender the relevant information to any union with which we have an exclusive collective-bargaining relationship at the Portland MVS department.

WE WILL provide to union stewards of any union with which we have an exclusive collective-bargaining relationship at the Portland MVS department, the name of the manager or supervisor who is designated to receive union requests for

information in the MVS department and when that designated manager or supervisor has changed.

WE WILL require our legal or labor relations department to conduct semi-annual audits of the above-referenced logs at the Portland MVS department, to ensure that the information requests of any union with which we have an exclusive collective-bargaining relationship are being handled in a timely and appropriate manner and to ensure the logs are being properly maintained.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

UNITED STATES POSTAL SERVICE

The Board's decision can be found at www.nlr.gov/case/19-CA-234857 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.



<u>Date</u>	<u>Document Description</u>	<u>Pages</u>
10/30/20	Formal Settlement, <i>United States Postal Service and American Postal Workers Union, Portland Area Local 128, AFL-CIO</i> , Case Nos. 19-CA-234857, 19-CA-242254, 19-CA-242271, 19-CA-242595 and 19-CA-242596 w/exhibits 1 - 10	66

IN TESTIMONY WHEREOF, the Executive Secretary of the National Labor Relations Board, being duly authorized, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 7th day of December 2020.

/s/ Roxanne Rothschild
Roxanne Rothschild
Executive Secretary
NATIONAL LABOR RELATIONS BOARD

(seal)

UNITED STATES COURT OF APPEALS
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	:	19-CA-242595
Respondent	:	19-CA-242596

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for enforcement, proposed judgment, and certificate of record, in the above case, has this day been served by first class mail upon the following parties at the addresses listed below:

Roderick D. Eves, Dpty Mgng Counsel
United States Postal Service
Law Department - NLRB Unit
1720 Market Street, Rm 2400
St. Louis, MO 63155-9989

Dallas G. Kingsbury Esq.
United States Postal Service
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St. Louis, MO 63155-9948

/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 7th day of December, 2020

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

UNITED STATES POSTAL SERVICE

Respondent

ITEMS SHOWN ON BOARD'S CERTIFICATE
OF RECORD ARE CONTAINED HEREIN