

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

**TACOMA BAKING COMPANY, INC.**

**and**

**HANNAH RITNER, an Individual**

**and**

**EMMA YODER, an Individual**

**Cases 19-CA-258566  
19-CA-260381  
19-CA-263343**

**GENERAL COUNSEL’S REPLY TO RESPONDENT’S PURPORTED  
JANUARY 5, 2021, RESPONSE TO THE BOARD’S NOTICE TO SHOW CAUSE**

The General Counsel, by the undersigned Counsel for the General Counsel (“CGC”), pursuant to §§ 102.24(b) and 102.50 of the Rules and Regulations of the National Labor Relations Board (the “Board”), Series 8, as amended, files with the Board this Reply to Tacoma Baking Company, Inc.’s (“Respondent”) January 5, 2021 purported Response (“Response”) to the Board’s December 28, 2020 Notice to Show Cause (“NSC”) as to why the General Counsel’s December 22, 2020 Motion for Default Judgment (“Motion”) should not be granted.

The Board’s NSC directed that any party seeking to show cause why the General Counsel’s Motion should not be granted should do so in writing and file that response with the Board in Washington, D.C., on or before January 11, 2021, together with an affidavit of service on the parties to this proceeding. (Exhibit 1). As Respondent failed to do as the Board ordered in several respects, the General Counsel’s Motion should be granted.

1. As an initial matter, Respondent did not even initially file with the Board. Rather, its Registered Agent and former manager, Pieter DeVisser (“DeVisser”), initially sent a three-page letter via email with Region 19 on January 4, 2021, setting forth its

rationale for its failure to file a timely answer to the September 29, 2020, Consolidated Complaint and Notice of Hearing (“Complaint”) against Respondent. DeVisser, despite having clearly been served with both the Complaint and the Motion, did not include along with this letter an answer to the extant Complaint. Instead, he requested a stay of proceedings and professed his inability to speak on behalf of Respondent despite his self-identified status as registered agent and former manager; indeed, it is printed on his own letterhead that he is, in fact, the Registered Agent for Respondent. Thus, although DeVisser speculates who might be Respondent’s “representative,” he does not deny he is Respondent’s Registered Agent, former Manager, and an alleged actor in the Complaint. (Exhibit 2). The Region informed Respondent that same day that, as stated in the NSC, it would have to file any response with the Board for it to be considered. (Exhibit 3).

2. On January 5, 2021, DeVisser, on behalf of Respondent, filed the same letter, still addressed to the Region, with the Board in Washington, D.C. This is its purported Response to the Board’s NSC. In that letter, as noted above, DeVisser, despite being Respondent’s self-identified Registered Agent in his letterhead and served properly with both the Complaint and Motion, requests a stay and denies he has authority to respond, represent, or even accept service on behalf of Respondent. He has, as yet, to respond substantively to either the Complaint or the Board’s NSC.

3. Even if Respondent’s Response had been substantive, it was still procedurally defective. Contrary to the Board’s NSC, Respondent’s Response to the NSC did not contain an affidavit proving service was attempted, much less perfected, on Charging Parties Hannah Ritner and Emma Yoder.

4. Assuming, *arguendo*, that the Board were to accept Respondent's letter to the Region as an adequate substantive response properly filed and served, the General Counsel's Motion should still be granted, as there is still no answer to the extant Complaint. While DeVisser speculates who might be Respondent's representative, he does not deny he is Respondent's Registered Agent, former Manager of Respondent, and Respondent actor as alleged in the Complaint. In fact, DeVisser also clearly states that he will not file an answer to the Complaint.

While Respondent asserts the failure to file an answer is, in part, because of lack of legal representation since August 2020, such excuse is baseless for several reasons. First, regardless of the status of representation by an attorney, DeVisser is still Respondent's Registered Agent. He can, and has, accepted service on its behalf, and has a fiduciary duty attendant to that position. Second, there is no requirement that an attorney file an answer to an Agency complaint. He, or any designee, officer, agent, or assignee, could do so. In fact, since being served with the Complaint, he has had more than enough time and opportunity to do so, even if it were to profess general denials. The fact that he requested for a stay attests to that; he could have just as easily filed an answer.

Third, DeVisser's request for a stay of proceedings because he believes that pending and unrelated litigation in Washington Superior Court will likely have a favorable outcome for Respondent, does not address the purported obstacle to having filed an answer – knowing who is to respond and denial that it is he. Not only is he Registered Agent for these Board proceedings, but he is clearly aware of what other litigation Respondent is involved in. Litigation in court, unless *pro se*, requires an attorney who is

representing Respondent; an attorney he is in contact with in one way or another. There is nothing that would be gained by granting a stay, as the passage of time would not afford him information not available to him now. Indeed, since he articulates in the Response that Respondent's intention is to file civil and criminal counterclaims against the Charging Parties in retaliation for their protected concerted activities underpinning the instant charges, he is clearly at no loss as to ascertaining who the decision makers are and who to talk to presently.

Finally, Respondent's purported reasons discussed above for not filing an answer in its Response, and its continued failure to do so, do not, at this late date, excuse its conduct. The Board has stated that "it will not address a respondent's assertion that it has a meritorious defense unless good cause has been shown for the late response." *Patrician Assisted Living Facility*, 339 NLRB 1153, 1154 (2003), *citing Dong-A Daily North Am., Inc.*, 332 NLRB 15, 16 (2000). Here, Respondent asserts that Board proceedings should be stayed because of the existence of pending unrelated litigation, but that is not sufficient to establish good cause for not filing a timely answer

5. The General Counsel's Motion should also be granted because, apart from the substantive and procedural deficiencies of the Response, as well as the continued failure to file an answer to the Complaint (which warranted the filing of the Motion *ab initio*), Respondent, by the above-stated intent to file lawsuits, has threatened further unlawful conduct against the Charging Parties in its Response. And this, it claims, is partially why a stay is warranted, but an answer has not been filed.

**NOW THEREFORE**, in accordance with §§ 102.24 and 102.50 of the Board's Rules, based on Respondent's repeated failure and/or refusal to file an answer under

§ 102.20 of the Board's Rules and its defective Response to the Board's NSC as set forth above, CGC respectfully submits that the Board grant its December 22, 2020 Motion and issue a default judgment in the above-captioned cases, ruling that the allegations of the Complaint are deemed admitted to be true, and issue a Decision and Order containing such finding of facts, conclusions of law, and order in accordance with the allegations of the Complaint. *Transp. Solutions, Inc. & Gen. Teamsters, Chauffeurs & Helpers Local 249 a/w Int'l Bhd. of Teamsters*, 355 NLRB 136 (2010) (granting the GC's motion for default judgment based on respondent's failure to file any document reasonably construed as an answer to the complaint); *Pas LLC*, 364 NLRB No. 139 (2016).

Dated at Seattle, Washington, this 11<sup>th</sup> day of January, 2021.



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Attachments

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

**TACOMA BAKING COMPANY, INC.**

**and**

Cases 19-CA-258566  
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**HANNAH RITNER**

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19-CA-263343

**EMMA YODER**

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

On December 22, 2020, the General Counsel filed with the National Labor Relations Board a Motion for Default Judgment, on the ground that the Respondent has failed to file an answer to the Consolidated Complaint and Notice of Hearing. 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.

**NOTICE IS GIVEN** that any party seeking to show cause why the General Counsel's motion should not be granted must do so in writing, filed with the Board in Washington, D.C., on or before January 11, 2021 (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., December 28, 2020.

By direction of the Board:

Roxanne L. Rothschild

Executive Secretary

**EXHIBIT 1**

Pieter R. DeVisser ♦ Registered Agent, Tacoma Baking Company, LLC  
3004 N Huson Street, Tacoma, WA 98407-4006 ♦ (253) 315-0488 ♦ pieter.devisser@mac.com

Anne Pomerantz, Acting Regional Director  
National Labor Relations Board, Region 19  
915 2<sup>nd</sup> Ave, Ste. 2948  
Seattle, WA 98174-1006

RE: 19-CA-263343

January 4, 2020

To Whom It May Concern:

I am writing this letter to as a “friend of the Court” and the registered agent of Tacoma Baking Company, LLC (hereafter “TBC”) to:

1. Inform the National Labor Relations Board as to the reasons for the Company’s failure to file a timely Answer to the combined complaints associated with 19-CA-263343, and
2. Request a stay of proceedings in this matter, pending the results of ongoing litigation.

This letter is not to be construed as the official position of the Company, nor am I to be considered the legal representative of the Company, except as the recipient for the service of process.

1. Failure to file Answer

1.1 **Cessation of TBC operations.** About mid-March, TBC halted its retail operations due to the ongoing COVID-19 pandemic and the “Stay home. Stay Safe” measures enacted by the State of Washington. At the time, TBC leadership was conducting a substantial re-organization of leadership and personnel to address existing financial and operational problems. Although plans were made to mitigate the impact of lost revenue caused by COVID-19 measures, it became clear TBC would not be able to meet its financial obligations and would have to close its doors permanently.

1.2 **Litigation.** Included in the existing financial troubles mentioned above was TBC’s ongoing struggle to make timely payments on its equipment loan. Unable to satisfy the lender, this resulted in litigation (Tahoma Café v. TBC, Washington Superior Court Case 20-2-04954-4) and, ultimately a judgement against TBC. About the same time

the lender moved to enforce the judgement, two TBC owners filed a complaint against TBC and two of its remaining owners (Geissler, et al. v. TBC, et al., Washington Superior Court Case 20-2-06508-6). Among other claims, included in that case are allegations of mismanagement, dispute of ownership, and dispute of managerial authorities (agency). Both cases requested a Receiver be appointed, which the Court in the Tahoma Café case granted on 26 June 2020. These cases were recently consolidated by the Court under the Geissler case as the Receiver prepares to finalize and close the receivership.

1.3 **Loss of representation.** TBC's legal representative, Jack Orr, withdrew from both of the above cases and ceased representation of TBC in August 2020, as he is not a litigator – a point he made clear when his services were originally engaged. Until the end of July he was in direct communication with me and Jessica DeVisser, as the two still active TBC owners, regarding the litigation mentioned above, as well as 19-CA-263343. Even as late as 31 July, 2020, Email correspondence between Mr. Orr and myself can corroborate Mr. Orr intended to file an Answer to 19-CA-263343, as well as contact Angie Chong, the Senior Field Attorney handling the matter. It is clear he neglected to do either. After Mr. Orr's withdraw, TBC was left without legal representation, except for the Court appointed Receiver. Email correspondence between Jessica DeVisser and Ms. Chong can corroborate Ms. Chong was made aware of the ongoing litigation and receivership and the fact that it was unclear who was authorized to speak/negotiate on behalf of TBC (due to the Geissler case).

1.4 Given the combination of the above factors, creating and filing an Answer in the 19-CA-263343 matter has not been possible. The LLC has no attorney representing its interests, and the Receiver has made it clear he only represents the LLC as far as disposition of its assets is concerned. Absent a designated attorney, I believe the legal representative would then be the duty of the LLC Manager, but who the actual LLC Manager is has not yet been decided in the Geissler matter and remains a point of contention. While I am the Registered Agent of the LLC and a former LLC Manager, given the claims made in the Geissler matter, I do not feel legally authorized to act in any agency capacity. I am not even sure I can legally accept service on behalf of the LLC at this point.

## 2. Request to Stay Proceedings

2.1 I ask the NLRB to consider staying the proceedings in the 19-CA-263343 matter, until the Geissler case is concluded. There are material issues in that case that must first be adjudicated, in order for TBC to adequately represent itself before the NLRB. As the

former Personnel Director of TBC, I believe I have sufficient evidence to show the claims made in 19-CA-263343 are baseless. In addition, I believe there are both civil and criminal counterclaims to be made against one or both of the Complainants in connection to their documented, public attempts to cause harm to the LLC. Unfortunately, I do not feel I have the legal standing or the vested authority to represent the LLC's interests.

3. I urge the NLRB to reject General Counsel's Motion for Default Judgement in this case. Doing so would allow Complainant's to prevail against a Defendant unable to defend itself. Complainants have little evidence to support their claims, while the Defendant is currently procedurally barred from providing counter evidence and filing counterclaims. Complainant's motion does not serve the aim of justice but, rather, serves to further harm an already beleaguered company and ensure it cannot be heard and offer substantial counter evidence.

Sincerely,



Pieter DeVisser  
Registered Agent  
Tacoma Baking Company, LLC

**From:** [Chong, Angelie](#)  
**To:** [Pieter.devisser@mac.com](mailto:Pieter.devisser@mac.com)  
**Cc:** [Pomerantz, Anne](#)  
**Subject:** Tacoma Baking Company, Inc. (19-CA-258566, et al)  
**Date:** Monday, January 4, 2021 2:00:00 PM

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Mr. DeVisser – I understand that you sent a letter to our Regional Attorney Anne Pomerantz, in connection with the Motion for Default Judgment in these matters. Per the Board’s Order Transferring Proceeding to the Board and Notice to Show Cause, please file your response with the Board in Washington D.C. And if you are not the designated Agent authorized to speak on the Employer’s behalf as you state in the document, we will need to know who is and that person will need to respond as to the substance and file such response with the Board.

### Angelie Chong

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Please note the NLRB now requires electronic filing of documents. See [GC Memo 20-01](#) on the Agency’s website.

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of General Counsel's Reply to Respondent's Purported January 5, 2021, Response to the Board's Notice to Show Cause was served on the 11<sup>th</sup> day of January, 2021, on the following parties:

### Efile:

Roxanne Rothschild, Executive Secretary  
National Labor Relations Board  
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### Email:

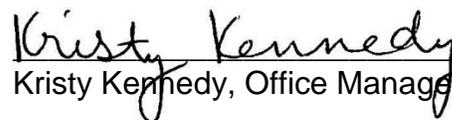
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