



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

February 17, 2021

Deborah S. Hunt
Clerk, United States Court of
Appeals for the Sixth Circuit
540 Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, OH 45202-3988

Re: *NLRB v. Novelty Advertising Company*,
Board Case No. 08-CA-239588

Dear Ms. Hunt:

I am enclosing the Board's application for summary entry of a judgment enforcing the Board's order in this case, and a copy of 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 St., S.E.
Washington, D.C. 20570
(202) 273-2960

cc: Service List

SERVICE SHEET

RESPONDENT:

Gregory R Coffman, President
Novelty Advertising Company
Upper 167th ST W
Lakeville, MN 55044

THE BOARD IS NOT AWARE OF
COUNSEL FOR THE RESPONDENT

Phone: (740) 622-3113
Fax: (740) 622-5286
Email: greg@noveltyadv.com

OHIO SECRETARY OF STATE –
REGISTERED BUSINESS ADDRESS:

Gregory R Coffman
Novelty Advertising Company
1148 Walnut Street
Coshocton, OH 43812

CHARGING PARTY:

Christopher A. Hancock, President
Graphic Commc'ns Conf. of the Int'l Bhd
of Teamsters, Local 508-M of Dist.
Council 3
2100 Oak Road
Cincinnati, OH 45241-2501

Phone: (513) 621-3974
Fax: (513) 621-5283
Email: dc3chancock@gmail.com

CHARGING COUNSEL:

Gary M. Eby Esq.
Manley Burke, LPA
225 W. Court St
Cincinnati, OH 45202-1012

Phone: (513) 763-6749
Fax: (513) 763-6448
Email: garyeby@manleyburke.com

REGIONAL DIRECTOR:

Jennifer A. Hadsall
1240 East 9th St., Rm. 1695
Cleveland, OH 44199-2086

Tel: (216) 522-3715

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD :
:
Petitioner : No.
v. :
:
NOVELTY ADVERTISING COMPANY : Board Case No.:
: 08-CA-239588
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 Sixth Circuit:

The National Labor Relations 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 Novelty Advertising Company (“Respondent”). The Board is entitled to summary enforcement of its order because Respondent failed to file an answer to the Board’s unfair labor practice complaint and the Board entered an order by default. 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 Ohio. The Board's final order issued on February 6, 2020, and is reported at 369 NLRB No. 27.

B. Proceedings Before the Board

1. On November 27, 2019, the General Counsel issued the complaint and notice of hearing in Case No. 08-CA-239588, charging Respondent with certain violations of the Act. The complaint, in part, advised the Respondent that under the Board's Rules (29 C.F.R. 102.20 and 102.21), the Respondent was required to file an answer by December 11, 2019, and that if the Respondent failed to file an answer, the allegations of the complaint would be deemed to be true.

2. Having not received an answer, counsel for the General Counsel, on December 12, 2019, sent Respondent a letter advising that if no answer was received by December 18, 2019, the Board's Regional Office would file a Motion for Default Judgment with the Board.

3. The Respondent did not file an answer.

4. On December 20, 2019, counsel for the General Counsel filed with the Board a Motion for Default Judgment based upon the Respondent's failure to file an answer to the complaint.

5. By order dated December 23, 2019, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondent until January 6, 2020,

to file with the Board in Washington, D.C., a response to the Motion for Default Judgment

6. Respondent did not file a response. The allegations in the motion were therefore undisputed.

7. The Board, on February 6, 2020, issued its Decision and Order, granting the Motion for Default Judgment in the absence of good cause being shown for Respondent's failure to file a timely answer, and entering an appropriate order against the Respondent.

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

On these facts, the Board is entitled to summary enforcement of its order against Respondent. Where a respondent in a Board proceeding fails to file an appropriate answer to the unfair labor practice complaint in a timely manner, the Board may, pursuant to Board Rule 102.20, absent a showing of "good cause," deem the complaint's allegations admitted, and then may enter an order, essentially by default, against the respondent. No cause for Respondent's failure to file an answer was alleged or shown here.

It is settled that the Board is entitled to have that default judgment summarily enforced. Under Section 10(e) of the Act (29 U.S.C. § 160(e)), no objection that has not been urged before the Board shall be considered by a court of appeals "unless the failure or neglect to urge such objection shall be excused

because of extraordinary circumstances.” This limitation is jurisdictional and its application is mandatory. *Woelke & Romero Framing v. NLRB*, 456 U.S. 645, 666-67 (1982). Interpreting that requirement, courts have consistently held that a respondent’s failure to assert any defense before the Board entitles the Board, absent extraordinary circumstances, to summary enforcement of its order. *See e.g., NLRB v. Mays Printing Co.*, 452 F.App’x 593 (6th Cir. 2009). *See also; Mt. Clemens Gen. Hosp. v. NLRB*, 328 F.3d 837, 843 (6th Cir. 2003); *Father and Sons Lumber v. NLRB*, 931 F.2d 1093, 1095-96, 1097 (6th Cir. 1991); *N.L.R.B. v. Innkeepers of Ohio, Inc.*, 596 F.2d 177, 178 (6th Cir. 1979); *NLRB v. Aaron Convalescent Home*, 479 F.2d 736, 738-39 (6th Cir. 1973); *NLRB v. Dane County Dairy*, 795 F.2d 1313, 1319-21 (7th Cir. 1986); *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 341 (3d Cir. 1984). No such circumstances have been alleged or shown here.

WHEREFORE, the Board respectfully requests that the Court, after serving notice of the filing of this application on Respondent, enter judgment summarily enforcing the Board’s order in full. A proposed judgment is attached.

Dated in Washington, D.C.
this 17th day of February 2021

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

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	
NOVELTY ADVERTISING COMPANY	:	Board Case No.:
	:	08-CA-239588
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, Novelty Advertising Company, its officers, agents, successors, and assigns, enforcing its order dated February 6, 2020, in Case No. 08-CA-239588, reported at 369 NLRB No. 27, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Novelty Advertising Company, its officers, agents, successors, and assigns, shall abide by said order (See attached Order and Appendix).

ENTERED BY ORDER OF THE COURT

Clerk

NATIONAL LABOR RELATIONS BOARD

v.

NOVELTY ADVERTISING COMPANY

ORDER

Novelty Advertising Company, Coshocton, Ohio, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Refusing to bargain collectively with Graphic Communications Conference of the International Brotherhood of Teamsters, Local 508-M of District Council 3 (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) Refusing to bargain collectively with the Union by unreasonably delaying in providing 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.
 - (c) 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 on March 4, 2019, that has not already been provided and is set forth in paragraph 3(a)(1-10) of this decision.
 - (b) Within 14 days after service by the Region, post at its Coshocton, Ohio facility copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 8, 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 March 4, 2019.

- (c) Within 21 days after service by the Region, file with the Regional Director for Region 8 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 Graphic Communications Conference of the International Brotherhood of Teamsters, Local 508-M of District Council 3 (the Union) by refusing to furnish it with requested information that is relevant and necessary to the Union's performance as the collective-bargaining representative of our unit employees.

WE WILL NOT refuse to bargain collectively with the Union by unreasonably delaying in providing it with requested information that is relevant and necessary to the Union's performance 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 promptly furnish to the Union the information it requested on March 4, 2019, that we have not already provided.

NOVELTY ADVERTISING COMPANY

The Board's decision can be found at <http://www.nlr.gov/case/08-CA-239588> 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 SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	
NOVELTY ADVERTISING COMPANY	:	Board Case No.:
	:	08-CA-239588
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 party at the addresses listed below:

Gregory R Coffman, President
Novelty Advertising Company
Upper 167th ST W
Lakeville, MN 55044

Gregory R Coffman
Novelty Advertising Company
1148 Walnut Street
Coshocton, OH 43812

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

Dated at Washington, D.C.
this 17th day of February 2021