



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

February 23, 2021

Clerk, United States Court of
Appeals for the Fourth Circuit
Lewis F. Powell, Jr. U.S. Courthouse
1100 East Main Street, Suite 501
Richmond, VA 23219-3517

Re: *NLRB v. United States Postal Service*,
Board Case Nos. 10-CA-256947, 10-CA-
258263 and 10-CA-258720

Dear Clerk:

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 enclosing the certified record.

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

RESPONDENT'S COUNSEL:

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CHARGING PARTY:

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Concord, NC 28026

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UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD :
:
Petitioner : Nos.
v. :
: Board Case Nos.:
UNITED STATES POSTAL SERVICE : 10-CA-256947
: 10-CA-258263
Respondent : 10-CA-258720

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 Fourth 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. 10-CA-256947, 10-CA-258263 and 10-CA-258720, on February 16, 2021. 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 North Carolina. The Board's final order issued on February 16, 2021.

**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.

/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 23rd day of February, 2021

NATIONAL LABOR RELATIONS BOARD

v.

UNITED STATES POSTAL SERVICE

ORDER

United States Postal Service, 1040 Dale Earnhardt Boulevard, Kannapolis, North Carolina, its officers, agents, successors and assigns, shall

1. Cease and desist from the following:
 - (a) Disparaging the Union, including by holding up a union-related document and asking employees, “Would you mind telling me what this nonsense is?”;
 - (b) Creating the impression of surveillance of employees’ protected activities by telling employees that the Respondent has “people in here watching” the employees;
 - (c) Threatening employees in any way — including telling employees that the Respondent is not playing games with them and that if the employees keep this up, it is not going to be good for them; telling employees that the Respondent cannot believe that the employees had the nerve to file a Labor Board charge; telling employees that they better straighten up and that if the employees did not straighten up and get their act together, the employees would have a long and rocky road ahead of them; telling employees that “all [they] want to do is to try to cause problems”; and making threats of unspecified reprisals and implied threats to retaliate against employees, including that the Respondent has “people in here watching” the employees — because the Respondent’s employees engaged in protected activities under the National Labor Relations Act, or because these employees filed unfair labor practice charges with the Board;
 - (d) Retaliating against employees because the Respondent’s employees filed Board charges, including by directing an employee to read an announcement out loud in front of other employees at the Respondent’s stand-up talk;

- (e) In any other manner, interfering with, restraining, or coercing employees in the exercise of their rights under the National Labor Relations Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act:
- (a) Within 14 days of service by the Region:
 - (i) Post at its facility located at 1040 Dale Earnhardt Boulevard in Kannapolis, North Carolina, copies of the attached notice marked "Appendix 1." Copies of the notice, on forms provided by the Region, 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;
 - (ii) Electronically mail the Board Order and the official notice to all managers and supervisors at the Respondent's facility;
 - (iii) Distribute notices electronically, by email, posting on an intranet or internet site, and any other electronic means, if the Respondent customarily communicates with its employees by such means;
 - (iv) Take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material. In the event, during the pendency of these proceedings, the Respondent closes its 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 February 14, 2020.
 - (b) Within the 60-day Notice posting period, at a meeting or meetings scheduled to ensure the widest possible attendance on each shift, the Respondent's Postmaster Cherald Birch-Davis or, alternatively, a Board agent in the presence of Postmaster Cherald Birch-Davis, will read the notice to employees during worktime and in the presence of a union official and the managers and supervisors at the Respondent's facility in Kannapolis, North Carolina. The reading will take place at a time when the Respondent would customarily hold meetings for employees and

must be completed prior to the completion of the 60-day Notice posting period. The dates and times of the reading must be approved by the Regional Director. The announcement of the meeting will be in the same manner the Respondent normally announces meetings and must be approved by the Regional Director. If the Regional Director concludes that it is warranted, the notice-reading may be accomplished in full or in part by video-conferencing technology. The Regional Director must approve the details of any notice-reading by video-conference technology.

- (c) Within 21 days after service, file with the Centralized Compliance Unit at complianceunit@nlrb.gov and the Regional Director a signed and sworn Certification of Compliance Part I form certifying that it has complied with this Order. The certification shall include a copy of the documents signed by a responsible official attesting to the dates that the notices were received, the dates that the notices were posted, where the notices were posted, and date(s) and time(s) the management official read the Notice to Employees. The certification shall also include the dates the Respondent sent the Board Order and Notice to its managers and supervisors, a list of the names and job titles of the individuals to whom the Respondent sent them, and the method the Respondent employed to send them.

APPENDIX 1

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

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

SECTION 7 OF THE NATIONAL LABOR RELATIONS ACT 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

Among these rights are the rights to engage in union activities free from threats and retaliation and to file unfair labor practice charges with the National Labor Relations Board.

WE WILL NOT in any manner interfere with, restrain, or coerce you in the exercise of the above rights.

National Association of Letter Carriers, Branch 2794 (the Union) is the exclusive collective-bargaining representative of those of you in the following appropriate unit:

City Letter Carriers, excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, employees in the supplemental workforce as defined in Article 7, rural letter carriers, mail handlers, maintenance employees, special delivery messengers, motor vehicle employees, and postal clerks.

WE WILL NOT make statements to you that disparage or undermine the Union, including by referring to union documents as “nonsense.”

WE WILL NOT make it appear to you that we are watching your activities protected by the National Labor Relations Act, including by telling you that we have “people in here watching” you.

WE WILL NOT retaliate against you in any way because you or other employees filed charges with the National Labor Relations Board, including by directing you to read an announcement out loud in front of other employees at our stand-up talks.

WE WILL NOT threaten you in any way — including telling you that we are not playing games with you and that if you keep this up, it is not going to be good for you; telling you that we cannot believe you have the nerve to file a Labor Board charge; telling you that you better straighten up and that if you did not straighten up and get your act together, you will have a long and rocky road ahead of you; telling you that “all [you] want to do is to try to cause problems”; and making threats of unspecified reprisals and implied threats to retaliate against you, including by telling you that we have “people in here watching” you — because you engaged in protected activities under the National Labor Relations Act, or because you filed unfair labor practice charges with the National Labor Relations Board.

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of your rights under the National Labor Relations Act.

UNITED STATES POSTAL SERVICE

Dated: _____ By: _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy 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 or you may call the Board's toll free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: www.nlr.gov

4035 University Parkway, Suite 200
Winston-Salem, NC 27106

Telephone: 336.631.5201
Hours of Operation: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

The Board's decision can be found at www.nlr.gov/case/10-CA-256947 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 FOURTH CIRCUIT

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CERTIFICATE OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, authorized by Section 102.115, Rules and Regulations of the National Labor Relations Board, Series 8 (29 C.F.R.), certifies that the documents annexed hereto constitute the entire record of a proceeding had before the Board and known upon its records as Case Nos. 10-CA-256947, 10-CA-258263 and 10-CA-258720.

The attached documents are as follows:

<u>Date</u>	<u>Document Description</u>	<u>Pages</u>
02/16/2021	Decision and Order, <i>United States Postal Service and National Association of Letter Carriers, AFL-CIO, Branch 2794</i> , Case Nos. 10-CA-256947, 10-CA-258263 and 10-CA-258720	6
01/12/2021	Formal Settlement Stipulation, <i>United States Postal Service and National Association of Letter Carriers, AFL-CIO, Branch 2794</i> , Case Nos. 10-CA-256947, 10-CA-258263 and 10-CA-258720 w/exhibits A thru H	43

IN TESTIMONY WHEREOF, the Deputy Executive Secretary of the National Labor Relations Board, being duly authorized, has hereunto set her hand and

affixed the seal of the National Labor Relations Board in the city of Washington,
District of Columbia, this 23rd day of February, 2021.

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

(seal)

UNITED STATES COURT OF APPEALS
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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, Esq.
United States Postal Service
Law Dept. - NLRB Unit
1720 Market St., Rm. 2400
Saint Louis, MO 63155-9948

Mark F. Wilson, Attorney
United States Postal Service
1300 Evans Ave., Rm. 217
San Francisco, CA 94188-5447

/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 23rd day of February, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner

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UNITED STATES POSTAL SERVICE

Respondent

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