

305 NLRB No. 150

SDO

D--2450
Festus and
Hazelwood, MO

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PRECISION BUILDERS, R.S., INC. AND ITS
ALTER EGO RFS GENERAL CONTRACTING, INC.,
d/b/a RFS FOUNDATION AND CARPENTRY

and

Case 14--CA--19481

CARPENTERS' DISTRICT COUNCIL OF ST. LOUIS,
AFFILIATED WITH UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF AMERICA, AFL--CIO

CORRECTION

On December 30, 1991, the National Labor Relations Board issued a
Supplemental Decision and Order in the above-captioned case.

Please substitute the attached for your copy to reflect footnote 2 which
was inadvertently omitted.

Dated: January 9, 1992

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Dated: January 9, 1992

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certified and regular mail informing the Respondent that unless an answer was received by the close of business on October 24, 1991, the General Counsel would file a Motion for Summary Judgment on the compliance specification. The Respondent has not filed an answer. In the absence of good cause being shown for the Respondent's failure to file an answer to the compliance specification in accord with the provisions of Section 102.56 of the Board's Rules, we find the allegations of the specification to be true and grant the General Counsel's Motion for Summary Judgment. Accordingly, we find that the net backpay and fringe benefit contributions due to and on behalf of the discriminatees is as stated in the compliance specification, and we shall order the Respondent to pay those amounts.

ORDER

The National Labor Relations Board orders that the Respondent, Precision Builders, R.S., Inc. and its alter ego RFS General Contracting, Inc., d/b/a RFS Foundation and Carpentry, Festus, Missouri, its officers, agents, successors, and assigns, shall make whole discriminatee Russell Sanders by paying him the sum of \$1,080.34, plus interest to be computed in the manner prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987), and accrued to the date of payment, minus tax withholdings required by law, and shall pay

to the Union for contributions to the pension, welfare, and advancement funds on behalf of the discriminatees the sum of \$14,432.30.²

Dated, Washington, D.C.

James M. Stephens, Chairman

Dennis M. Devaney, Member

Clifford R. Oviatt, Jr., Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

² We leave to further compliance proceedings the question of whether the Respondent must pay any additional amounts necessary to satisfy our make-whole remedy. Merryweather Optical Co., 240 NLRB 1213, 1216 fn. 7 (1979).

Precision Builders, R.S., Inc. and its Alter Ego RFS General Contracting, Inc., d/b/a RFS Foundation and Carpentry and Carpenters' District Council of St. Louis, affiliated with United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Case 14-CA-19481

December 30, 1991

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

On August 14, 1989, the National Labor Relations Board issued a Decision and Order¹ in this proceeding in which it ordered, inter alia, the Respondent, Precision Builders, R.S., Inc. and its alter ego RFS General Contracting, Inc., d/b/a RFS Foundation and Carpentry, to make whole employees in the appropriate bargaining unit by reimbursing them for lost wages plus any medical, dental, or other expenses they incurred and by transmitting contributions owed to the Union's health and welfare, pension, vacation and holiday, and other funds pursuant to the terms of the then-existing collective-bargaining agreement. On April 27, 1990, the parties entered into a stipulation waiving the Respondent's right to contest the propriety of the Board's Order and the facts and conclusions underlying the Order.

A controversy having arisen over the amount of wages and fringe benefit contributions due under the terms of the Board's Order, the Regional Director for Region 14 on September 27, 1991, issued and served on the Respondent by both certified and regular mail a compliance specification and notice of hearing, alleging the amount of backpay and fringe benefit contributions due and owing to and on behalf of the discriminatees named in the specification. The Respondent failed to answer the compliance specification.

On October 31, 1991, the General Counsel filed with the Board a Motion to Transfer Proceeding to the Board and for Summary Judgment, with exhibits attached. On November 6, 1991, the Board issued an order transferring proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. The Respondent filed no response. Therefore, the allegations in the motion are undisputed.

¹ 296 NLRB No. 15. Member Oviatt did not participate in that proceeding.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(c) of the Board's Rules and Regulations states, in relevant part:

(c) Effect of failure to answer or to plead specifically and in detail to backpay allegations of specification.—If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

The compliance specification states that unless an answer is filed within 21 days of service, "such allegations shall be deemed to be admitted to be true and may be so found by the Board." The compliance specification was properly served on the Respondent by both regular and certified mail. Further, on October 21, 1991, counsel for the General Counsel sent a letter by both certified and regular mail informing the Respondent that unless an answer was received by the close of business on October 24, 1991, the General Counsel would file a Motion for Summary Judgment on the compliance specification. The Respondent has not filed an answer. In the absence of good cause being shown for the Respondent's failure to file an answer to the compliance specification in accord with the provisions of Section 102.56 of the Board's Rules, we find the allegations of the specification to be true and grant the General Counsel's Motion for Summary Judgment. Accordingly, we find that the net backpay and fringe benefit contributions due to and on behalf of the discriminatees is as stated in the compliance specification, and we shall order the Respondent to pay those amounts.

ORDER

The National Labor Relations Board orders that the Respondent, Precision Builders, R.S., Inc. and its alter ego RFS General Contracting, Inc., d/b/a RFS Foundation and Carpentry, Festus, Missouri, its officers, agents, successors, and assigns, shall make whole discriminatee Russell Sanders by paying him the sum of \$1,080.34, plus interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and

accrued to the date of payment, minus tax withholdings required by law, and shall pay to the Union for contributions to the pension, welfare,

and advancement funds on behalf of the discriminatees the sum of \$14,432.30.²

² We leave to further compliance proceedings the question of whether the Respondent must pay any additional amounts necessary to satisfy our make-whole remedy. *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn. 7 (1969).