

APA Construction Services, Inc. and Southern California Conference of Carpenters, United Brotherhood of Carpenters & Joiners of America, AFL-CIO. Case 21-CA-28491

The
10, 1992

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

Upon a charge filed by the Union on January 30, 1992, the General Counsel of the National Labor Relations Board issued a complaint against APA Construction Services, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On May 11, 1992, the General Counsel filed a Motion for Summary Judgment. On May 13, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

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

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all the allegations in the complaint shall be considered to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that a Board agent, by letter dated April 9, 1992, notified the Respondent that unless an answer was received by April 16, 1992, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a California corporation, with its principal place of business in Yorba Linda, California, has been engaged in business as a general

contractor/subcontractor installing computer flooring. During the fiscal year ending December 30, 1991, Respondent, in conducting its business operations, derived gross revenues in excess of \$50,000 for the performance of services in a commercial building and provided services valued in excess of \$50,000 for an enterprise directly engaged in interstate commerce. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

1. The following employees of Respondent (the unit), constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All carpenters employed by APA Construction Services, Inc., at its facility at 20481 Via Zaragoza, Yorba Linda, California; excluding all office, professional, clerical and supervisory employees, and guards as defined under the Act.

2. Since about May 1, 1988, and all material times, the Union has been the designated exclusive collective-bargaining representative of the unit and since then the Union has been recognized as the representative by Respondent. This recognition has been embodied in a recognition agreement dated May 1, 1988, which is in effect by its terms from January 1, 1988, to July 1, 1992.

3. On June 18, July 30, and December 23, 1991, respectively, the Union by letter, requested that Respondent furnish the Union with the following information:

a. a list of the names and addresses of all current jobs in the 12 Southern California Counties being performed by Respondent;

b. a list of the names and addresses of all current jobs in the 12 Southern California Counties being performed by Task Interiors, Inc. (Task Interiors), a company with which the Union has reasons to believe that Respondent has a significant interrelationship relevant to the Union's enforcement of the collective-bargaining agreement;

c. a description of the type of business in which Respondent is engaged;

d. a description of the type of business in which Task Interiors is engaged;

e. a list of all of the officers of Respondent and all of the officers of Task Interiors;

f. the business address for both Respondent and Task Interiors;

- g. the business telephone numbers of both Respondent and Task Interiors;
- h. the contractors' license numbers of both Respondent and Task Interiors;
- i. a list of the jobsites supervised by Task Interiors in the Southern California area;
- j. a list of the names and positions of Task Interiors' supervisors who have worked for Respondent;
- k. the nature of any contractual relationship between Task Interiors and Respondent, including any ownership interests;
- l. a list of any of Respondent's employees who have in the past or presently do work for Task Interiors;
- m. a list of Task Interiors personnel who set the corporate labor policy;
- n. a statement as to the start up date of Task Interiors and a list of its original owners and/or directors; and
- o. a statement of the operation status of Respondent, including the present business and the date the last job ended.

4. The information requested by the Union as described above is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

5. Since about July 30, 1991, and on various dates since July 30, 1991, Respondent has not responded to the Union's correspondence and has failed and refused to furnish the Union with the information Respondent requested, as described above.

CONCLUSION OF LAW

By failing and refusing to provide the Union with the information it requested, which information is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit, Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Respondent violated Section 8(a)(1) and (5) of the Act by refusing to furnish the Union relevant and necessary information,

we shall order Respondent to provide such information to the Union on request.

ORDER

The National Labor Relations Board orders that the Respondent, APA Construction Services, Inc., Yorba Linda, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the employees in the following unit:

All carpenters employed by APA Construction Services, Inc., at its facility at 20481 Via Zaragoza, Yorba Linda, California; excluding all office, professional, clerical and supervisory employees, and guards as defined under the Act.

(b) 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) On request, furnish the Union the information it requested on June 18, July 30, and December 23, 1991, which is relevant and necessary to its role as the exclusive bargaining representative of the unit.

(b) Post at its facility in Yorba Linda, California, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 21, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

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

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail or refuse to provide Southern California Conference of Carpenters, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, with information that is relevant and necessary to the performance of its functions as the exclusive collective-bargaining representative of the employees in the following unit:

All carpenters employed by APA Construction Services, Inc., at its facility at 20481 Via Zaragoza, Yorba Linda, California; excluding all office, professional, clerical and supervisory employees, and guards as defined under the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, furnish the Union the information it requested on June 18, July 30, and December 23, 1991, which is relevant and necessary to its role as the exclusive bargaining representative of the unit.

APA CONSTRUCTION SERVICES, INC.