

M.E.C. Corp. and Massachusetts Laborers' Benefit Funds. Case 1-CA-28985

April 29, 1994

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND COHEN

On December 7, 1992, the National Labor Relations Board issued a Decision and Order,¹ enforced by the United States Court of Appeals for the First Circuit on April 13, 1993, *inter alia*, ordering M.E.C. Corp., South Boston, Massachusetts, to pay the contractually required fringe benefit funds amounts and reimburse employees for expenses ensuing from its unlawful refusal to make the benefit funds payments in violation of the National Labor Relations Act.

A controversy having arisen over the amount of backpay due, on October 29, 1993, the Regional Director for Region 1 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated December 8, 1993, the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer were filed by December 30, 1993, summary judgment would be sought. The Respondent filed no answer.

On March 28, 1994, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On March 30, 1994, 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 again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

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(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this

¹ 309 NLRB No. 114 (not reported in Board volumes).

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.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the funds on behalf of the employees are as stated in the compliance specification and we will order payment by the Respondent of the amounts, plus interest accrued on the amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, M.E.C. Corp., South Boston, Massachusetts, its officers, agents, successors, and assigns, shall make the funds whole for losses of benefit funds contributions by paying them the amounts set forth below, plus interest:

NET BENEFIT FUNDS CONTRIBUTIONS OWED THROUGH SEPTEMBER 20, 1993	
Massachusetts Laborers' Health and Welfare Fund	\$6,642.63
Massachusetts Laborers' Pension Fund	4,495.10
New England Laborers' Training Trust Fund	619.45
Massachusetts Laborers' Legal Services Fund	194.60
Massachusetts Laborers' Annuity Fund	4,070.25
TOTAL	\$16,022.03

Dated, Washington, D.C. April 29, 1994

William B. Gould IV, Chairman

James M. Stephens, Member

Charles I. Cohen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD