

**Jo-Mac Moving Corporation d/b/a Security Moving and Storage and Van Storage Drivers, Packers, Warehousemen & Helpers, Local 389, International Brotherhood of Teamsters, AFL-CIO.**  
Case 31-CA-18655

May 31, 1994

**DECISION AND ORDER**

BY MEMBERS STEPHENS, DEVANEY, AND COHEN

On November 30, 1993, the National Labor Relations Board issued an Order adopting, in the absence of exceptions, the decision of the administrative law judge directing Jo-Mac Moving Corporation d/b/a Security Moving and Storage, the Respondent, inter alia, to reinstate and make whole certain of its unit employees for loss of earnings and other benefits resulting from their unlawful terminations on February 8, 1991, and to reimburse the union trust funds for any contributions it failed to make, in violation of the National Labor Relations Act.

A controversy having arisen over the amount of backpay and trust fund payments due, on February 23, 1994, the Regional Director for Region 31 issued a compliance specification and notice of hearing alleging the amounts 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 April 6, 1994, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by the close of business April 13, 1994, summary judgment would be sought. The Respondent filed no answer.

On April 25, 1994, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment on Compliance Specification, with exhibits attached. On April 29, 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 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 being shown 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 net amounts due the discriminatees and the union trust funds are as stated in the compliance specification and we will order payment by the Respondent to the discriminatees and the trust funds as set forth there.

**ORDER**

The National Labor Relations Board orders that the Respondent, Jo-Mac Moving Corporation d/b/a Security Moving and Storage, Sylmar, California, its officers, agents, successors, and assigns, shall make whole the discriminatees and the union trust funds, by paying them the amounts set forth in the compliance specification, plus interest on the backpay owed the discriminatees, less any tax withholdings on such backpay as may be required by Federal and state laws.

Dated, Washington, D.C. May 31, 1994

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James M. Stephens, Member

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Dennis M. Devaney, Member

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Charles I. Cohen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD