

**Gruppuso Plumbing Corp. and District Council No. 12 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe-fitting Industry of the United States and Canada, AFL-CIO, on behalf of Plumbers Locals 86, 209, and 299. Case 2-CA-23791**

November 26, 1993

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

On July 31, 1990, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> ordering Gruppuso Plumbing Corp., the Respondent, to make whole its unit employees by, inter alia, making unpaid monetary contributions to the welfare, pension, vacation, education, and annuity funds and to the Locals for administrative costs, as required by its collective-bargaining agreements.

A controversy having arisen over the amount of fund contributions and administrative expenses owed, on June 19, 1991, the Regional Director for Region 2 issued a compliance specification and notice of hearing alleging the amount of contributions and administrative expenses owed under the Board's Order.

Thereafter, on November 18, 1991, the Regional Director issued an order conditionally approving withdrawal of compliance specification, cancelling hearing and closing case inasmuch as the parties had reached a private settlement which provided for payment of all moneys owed the Locals and the funds, including interest. On February 2, 1993, however, the Regional Director issued an order reopening case and reinstating and reissuing amended compliance specification and notice of hearing on the ground that it appeared that the Respondent had failed to comply with the terms of the private settlement agreement.

On March 19, 1993, the Respondent filed an answer to the amended compliance specification. However, on October 29, 1993, the Respondent, the Union, and counsel for the General Counsel executed a joint stipulation in which the Respondent agreed to withdraw its answer to the amended compliance specification and to pay the total amounts owed as set forth in the joint stipulation.

Thereafter, on November 5, 1993, the General Counsel filed a Motion for Summary Judgment with the Board, asserting that, as the Respondent had withdrawn its answer to the amended compliance specification and agreed to the total amounts owed as set forth in the joint stipulation, the Board should issue an order against the Respondent in accordance with the amended compliance specification, as amended by the joint stipulation. On November 12, 1993, 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 and in the amended compliance specification are therefore undisputed.

**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, although initially filing an answer to the amended compliance specification, subsequently withdrew that answer pursuant to the joint stipulation. Such a withdrawal has the same effect as the failure to file an answer, i.e., the allegations are considered to be admitted.<sup>2</sup> Accordingly, we conclude that the amount of fund contributions and administrative expenses due are as stated in the amended compliance specification, as amended by the joint stipulation, and we will order payment by the Respondent of the amounts, plus interest, in the manner set forth in the joint stipulation.

**ORDER**

The National Labor Relations Board orders that the Respondent, Gruppuso Plumbing Corp., Yonkers, New York, its officers, agents, successors, and assigns, shall pay the amounts set forth in the joint stipulation, plus interest.

Dated, Washington, D.C. November 26, 1993

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James M. Stephens, Chairman

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Dennis M. Devaney, Member

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John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>1</sup> 299 NLRB No. 45 (not reported in Board volumes).

<sup>2</sup> See *Maislin Transport*, 274 NLRB 529 (1985).