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**KOR-US Community Broadcasting, Inc. d/b/a KCB 93.5 FM Stereo and National Association of Broadcast Employees & Technicians, Local 53, AFL-CIO. Case 31-CA-19941**

June 6, 1995

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS STEPHENS AND TRUESDALE

On July 13, 1994, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> inter alia, ordering KOR-US Community Broadcasting, Inc. d/b/a KCB 93.5 Stereo, to make whole the discriminatee, Than Kim, for any loss of earnings resulting from his discharge in violation of the National Labor Relations Act. On November 17, 1994, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing in full the Board's Order.

A controversy having arisen over the amount of backpay due the discriminatee, on January 26, 1995, the Regional Director for Region 31 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 March 28, 1995, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by April 7, 1995, summary judgment would be sought. The Respondent filed no answer.

On May 8, 1995, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On May 11, 1995, 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.

<sup>1</sup> 314 NLRB 354.

**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 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 backpay due the discriminatee is as stated in the compliance specification and we will order payment by the Respondent of said amount to the discriminatee, plus interest accrued on said amount to the date of payment.

**ORDER**

The National Labor Relations Board orders that the Respondent, KOR-US Community Broadcasting, Inc. d/b/a KCB 93.5 FM Stereo, Los Angeles, California, its officers, agents, successors, and assigns, shall make whole the individual named below, by paying him the amount following his name, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Than Kim \$4,370.00  
Dated, Washington, D.C. June 6, 1995

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William B. Gould IV, Chairman

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James M. Stephens, Member

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John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD