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Master Plastering Company; William Foster, an Individual; William Foster d/b/a Master Plastering, a Sole Proprietorship and Plasterers Local 2, Operative Plasterers and Cement Masons International Association, AFL-CIO and Contracting Plasterers Association of Southern California, Inc., Party to the Contract. Case 31-CA-18698

August 31, 1995

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND TRUESDALE

On July 13, 1994, the National Labor Relations Board issued a Decision and Order,¹ inter alia, ordering Master Plastering Company to resume payments to the contractually designated fringe benefits funds on behalf of the unit employees and make contributions it failed to pay to the funds as a result of the unlawful understatement of the hours worked by the employees, and to make the unit employees whole for all loss of earnings they may have suffered by reason of the unilateral change in the amount of their contractually required wages, with interest. On November 15, 1994, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amounts due, on June 20, 1995, the Regional Director for Region 31 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order. In addition to naming Master Plastering Company as a Respondent, the compliance specification also named William Foster, an Individual, and William Foster d/b/a Master Plastering, a sole proprietorship, as alleged alter egos and a single employer, or alternatively, a joint employer, with Master Plastering Company. The compliance specification notified the Respondents that they should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondents failed to file an answer.

By letter dated July 18, 1995, the Region advised the Respondents that no answer to the compliance specification had been received and that unless an appropriate answer were filed by July 24, 1995, summary judgment would be sought. The Respondents filed no answer.

On July 28, 1995, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On

August 1, 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 Respondents 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 Respondents, despite having been advised of the filing requirements, have failed to file an answer to the compliance specification. In the absence of good cause being shown for the Respondents' 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 are as stated in the compliance specification and we will order payment by the Respondents of the amounts, plus interest accrued on the amounts to the date of payment, reserving for future determination any amounts owing by the Respondents for all periods subsequent to December 31, 1994.

FINDINGS OF FACT

Master Plastering Company is now, and has been at all material times, a corporation duly organized under and existing by virtue of the laws of the State of California, with offices and a principal place of business located in Los Angeles, California, and then in Playa Del Rey, California, where it is engaged in the plastering business. Since about October 3, 1991, William Foster d/b/a Master Plastering has been a sole proprietorship with offices and a principal place of business located in Los Angeles, California, and then in Playa Del Rey, California, where it is engaged in the plastering business. Since about October 3, 1991, Master Plastering Company and William Foster d/b/a Master Plastering have been affiliated enterprises with common officers, ownership, and management; have for-

¹ 314 NLRB 349.

mulated and administered a common labor policy affecting their employees; and are engaged in the same type of business at the same address, with the same telephone number, the same employees, and the same equipment.

By virtue of the operations described above, Master Plastering Company and William Foster d/b/a Master Plastering constitute a single integrated business enterprise and are alter egos and a single employer within the meaning of the Act. Alternatively, Master Plastering Company and William Foster d/b/a Master Plastering have had and exercised joint control over the employment relationship of their employees, and therefore have been, and are now, joint employers within the meaning of the Act.

ORDER

The National Labor Relations Board orders that the Respondents, Master Plastering Company, William Foster, an Individual, and William Foster d/b/a Master

Plastering, a Sole Proprietorship, Playa Del Rey, California, their officers, agents, successors, and assigns, shall make whole the unit employees and the union trust funds by paying them the amounts set forth in the compliance specification, plus interest, less any tax withholdings on such backpay as may be required by Federal and state laws.

Dated, Washington, D.C. August 31, 1995

William B. Gould IV, Chairman

Margaret A. Browning, Member

John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD