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Vandel International, Inc. and its successor, Musa Corporation and Whipple, Ross & Hirsh, P.A.
Case 22-CA-18378

September 26, 1995

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS COHEN
AND TRUESDALE

On September 1, 1993, the National Labor Relations Board issued an unpublished Order adopting, in the absence of exceptions, the decision of the administrative law judge ordering Vandel International, Inc. and its successor, Musa Corporation, the Respondent, *inter alia*, to make whole certain of its unit employees for any loss of earnings and other benefits resulting from their discharges in violation of the National Labor Relations Act. On October 14, 1994, the United States Court of Appeals for the Third Circuit enforced the Board's Order.

A controversy having arisen over the amount of backpay due the discriminatees, on March 20, 1995, the Regional Director for Region 22 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 June 8, 1995, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by close of business June 22, 1995, summary judgment would be sought. The Respondent filed no answer.

On August 31, 1995, the General Counsel filed with the Board a Motion to the National Labor Relations Board for Summary Judgment and memorandum in support, with exhibits attached. On September 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 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 backpay due the discriminatees is as stated in the compliance specification and we will order payment of those amounts to the discriminatees, plus interest accrued on the amounts to the date of payment.

ORDER

The National Labor Relations Board orders that Respondent Musa Corporation, Piscataway, New Jersey, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest and minus tax withholdings required by Federal and state laws:¹

Juan Barbadillo	\$57.33 (backpay) plus \$1,454.47 interest
Guido Cabrera	- 0 -
Hector Del Fabro	5,680.69
Rosendo Franco	7,917.28
Oswaldo Grimaldi	425.98 (entire amount is interest)
Jose Llaverias	14,939.19
Jorge Montenegro	7,059.31
Juan Restrepo	5,155.44
Asdrubal Quiros	15,109.58

¹The compliance specification indicates that Respondent Vandel's liability in this case was satisfied, pursuant to a settlement agreement, by payment of \$90,000 which was distributed to the discriminatees. The amounts set forth below indicate the remaining balance of net backpay owed to each discriminatee by Respondent Musa as set forth in the specification. With respect to discriminatees Barbadillo and Grimaldi, the specification indicates that they have not been paid in full for interest which accrued on their backpay prior to receipt of the payment made by Respondent Vandel and that no additional interest will be calculated on the "interest" amounts indicated. With respect to discriminatee Cabrera, the specification indicates that he has been paid in full for backpay and interest amounts owed to him.

Narciso Del Rosario 15,706.93

TOTAL \$73,506.20

Dated, Washington, D.C. September 26, 1995

William B. Gould IV, Chairman

Charles I. Cohen, Member

John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD