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**Signage Systems, Inc., and Its Successor, SSI Advertising, Inc. *and* Curtis Krone.** Case 18–CA–12606

November 22, 1995

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING AND COHEN

On October 29, 1993, the National Labor Relations Board issued a Decision and Order,[1] inter alia, ordering Respondent Signage Systems, Inc. (Signage) to make whole the individual Charging Party, Curtis Krone, for any loss of earnings and other benefits resulting from its refusal to recall him from layoff between January 19 and 29, 1993, and its discharge of him on February 1, 1993, in violation of Section 8(a)(3) and (1) of the National Labor Relations Act. On April 29, 1994, the United States Court of Appeals for the Eighth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the obligation to make Krone whole under the terms of the Board's Order, and over the status and obligations of SSI Advertising, Inc. (SSI) as Respondent Signage's successor, on June 29, 1995, the Regional Director for Region 18 issued a compliance specification and notice of hearing. The specification alleged the amount due Krone under the Board's Order; alleged that SSI was liable, as a successor with notice of Respondent Signage's liability, for that amount along with Respondent Signage; and notified Respondent Signage and SSI 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, Respondent Signage and SSI failed to file an answer.

By letter dated July 21, 1995, the Regional Attorney notified Rickey A. Ballantyne, the president of Respondent Signage and SSI, that no answer to the compliance specification had been received and that unless an appropriate answer was filed by close of business July 28, 1995, a motion for default summary judgment would be filed. Respondent Signage and SSI filed no answer.

On October 19, 1995, the General Counsel filed with the Board a Motion for Default Summary Judgment, with exhibits attached. On October 24, 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. Respondent Signage and SSI 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 Default 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 Default Summary Judgment, Respondent Signage and SSI, 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 their 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 Default Summary Judgment.

FINDINGS OF FACT

At all relevant times, Respondent Signage, a Minnesota corporation with office and place of business located in Maple Grove, Minnesota, has been engaged in the manufacture and installation of signs and related products.

On August 22, 1994, Rickey A. Ballantyne, president and operations manager of Respondent Signage, incorporated SSI. About the same day, SSI commenced operations with Ballantyne in the position of president and operations manager conducting the same business of manufacturing and installing signs and related products; occupying the same space at the same location; employing the same employees; utilizing the same shop equipment, vehicles, and parts inventory; and servicing the same customer base. Shortly thereafter, on August 25, 1994, Signage ceased all operations. On October 3, 1994, SSI entered into a 5-year lease for the same space formerly occupied by Signage at 10814 County Road 81, Maple Grove, Minnesota.

Before engaging in the continuation of the business described above, SSI was put on notice by Ballantyne, president and operations manager of both Signage and

[1] 312 NLRB 1115.

SSI, and had knowledge of the unremedied pending unfair labor practices and the outstanding backpay and interest liability of Respondent Signage in the above-captioned case.

## CONCLUSION OF LAW

Based on the conduct and operations described above, SSI has continued the employment entity with notice of Signage's potential and actual backpay and interest liability to remedy its unfair labor practices, and is a successor to Respondent Signage within the meaning of the Act and is liable for remedying the unfair labor practices found by the Board by paying the outstanding balance of backpay due Krone, plus interest accrued on that amount to the date of payment.

## ORDER

The National Labor Relations Board orders that Respondent Signage Systems, Inc., and Its Successor, SSI Advertising, Inc., Maple Grove, Minnesota, their officers, agents, successors, and assigns, shall make whole Curtis Krone, by paying him the following amount, plus 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: $3910.

Dated, Washington, D.C. November 22, 1995

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| William B. Gould IV, | Chairman |
| Margaret A. Browning, | Member |
| Charles I. Cohen, | Member |

(SEAL) NATIONAL LABOR RELATIONS BOARD