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Blake & Sons Glass, Inc. and D & D Glass & Plastics, Inc., an alter ego and disguised continuance of Blake & Sons Glass, Inc. and Glaziers, Architectural Metal and Glassworkers Local Union No. 357, Brotherhood of Painters and Allied Trades, AFL-CIO. Cases 7-CA-31680 and 7-CA-33085

June 18, 1996

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND COHEN

A controversy having arisen over the amounts of backpay due under the terms of separate Orders issued by the Board on September 12, 1991, and August 4, 1993,¹ the Acting Regional Director for Region 7 issued an order consolidating cases, consolidated compliance specification and notice of hearing on June 14, 1995, alleging the amounts due under the Board's Orders, and notifying Respondent Blake & Sons Glass, Inc. (Respondent Blake & Sons) and its alter ego and disguised continuance, Respondent D & D Glass & Plastics, Inc. (Respondent D & D), that they should file a timely answer complying with the Board's Rules and Regulations.

Thereafter, on June 29, 1995, Respondent D & D filed an answer to the consolidated compliance specification. However, on March 20, 1996, Respondent D & D withdrew its answer on the asserted basis that Respondent D & D was no longer in business and had terminated its operation. Respondent Blake & Sons, which had previously ceased operations under its name about January 20, 1992, failed to file any answer to the consolidated compliance specification.

On May 23, 1996, the General Counsel filed a Motion for Default Summary Judgment with the Board. On May 28, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. Neither Respondent filed a response. The allegations in the

¹The Board's September 12, 1991 order in Case 7-CA-31680 against Respondent Blake & Sons is published at 304 NLRB 992. The Board's August 4, 1993 order in Case 7-CA-33085 against Blake & Son's alter ego and disguised continuance, Respondent D & D, is not included in Board volumes. The Board's Orders were enforced by the United States Court of Appeals for the Sixth Circuit on June 23, 1992, and February 2, 1994, respectively.

motion and consolidated 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.

The undisputed allegations in the Motion for Default Summary Judgment disclose that Respondent Blake & Sons failed to file any answer to the compliance specification and that Respondent D & D has withdrawn its answer. Such a withdrawal has the same effect as a failure to file an answer, i.e., the allegations in the consolidated compliance specification must be considered to be admitted to be true.²

In the absence of good cause being shown for the Respondents' failure to file an answer,³ we deem the allegations in the consolidated compliance specification to be admitted as true, and grant the General Counsel's Motion for Default Summary Judgment. Accordingly, we conclude that the net backpay due is as stated in the consolidated compliance specification and we will order payment by the Respondents of those amounts, plus interest accrued on those amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondents, Blake & Sons Glass, Inc. and its alter ego and disguised continuance, D & D Glass & Plastics, Inc., Port Huron, Michigan, their officers, agents,

² See *Maislin Transport*, 274 NLRB 529 (1985).

³ The fact that the Respondents may no longer be in business and have terminated their operations does not constitute good cause for failing to file an answer and is not a basis for denying the Motion for Summary Judgment. See, e.g., *Beumont Glass Co.*, 316 NLRB 35 fn. 1 (1995).

successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest, as set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and minus tax withholdings required by Federal and state laws:

James Scahill	\$169,659.02
Kenneth T. Shoff	176,760.78
Daniel Blake	12,704.24
Mark McDaniel	13,472.86

Michael T. Sanderson	14,830.41
TOTAL	\$387,427.31

Dated, Washington, D.C. June 18, 1996

William B. Gould IV,	Chairman
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Margaret A. Browning,	Member
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Charles I. Cohen,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD