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National Management Consultants, Inc. and its alter ego NMC Realty and 775 & 156-08 Riverside Drive Realty Corp. and Milo Alexander and Local 32B-32J, Service Employees International Union, AFL-CIO. Cases 2-CA-25386 and 2-CA-25524

July 10, 1998

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS LIEBMAN, HURTGEN, AND BRAME

On November 24, 1993, the National Labor Relations Board issued a Decision and Order which, inter alia, ordered National Management Consultants, Inc. (Respondent National) and 775 & 156-08 Riverside Drive Realty Corp. (Respondent Riverside) to make whole Milo Alexander and Raymond Ortiz for loss of earnings and other benefits resulting from their discharges in violation of the National Labor Relations Act. (313 NLRB 405 (1993).)

A controversy having arisen over the amount of backpay due the discriminatees,¹ on July 31, 1997, the Regional Director for Region 2 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondents that they should file a timely answer complying with the Board's Rules and Regulations. Although properly served with copies of the compliance specification, the Respondents failed to file an answer.

By letter dated December 17, 1997, the counsel for the General Counsel advised the Respondents that no answer to the compliance specification had been received and that unless an appropriate answer was filed by December 31, 1997, summary judgment would be sought. The Respondents filed no answer.

On June 4, 1998, the Acting General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On June 5, 1998, 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

¹ On May 5, 1994, Respondent National and Respondent Riverside entered into a compliance stipulation waiving their right to contest the Board's Order, or the findings of fact or conclusions of law underlying the Order, except as to the amount of backpay due the discriminatees.

allegations in the motion and in the compliance specification are therefore undisputed.²

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 for the Respondents' failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the Acting 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 by the Respondents of the amounts to the discriminatees, plus interest accrued on the amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondents, National Management Consultants, Inc. and its alter ego NMC Realty and 775 & 156-08 Riverside Drive Realty Corp., New York, New York, their officers, agents, successors, and assigns, shall make whole the individuals and funds named below, by paying them the amounts opposite their names, plus interest on the backpay due the individuals as set forth in

² The undenied allegations of the compliance specification and the Motion for Summary Judgment fully support a finding that Respondent NMC Realty is the alter ego of Respondent National Management Consultants, Inc. Accordingly, our Order in this proceeding applies to Respondent NMC as well as the Respondents found liable in the underlying unfair labor practice proceeding.

New Horizons for the Retarded, 283 NLRB 1173 (1987), and any additional amounts owed the funds as set forth in *Merryweather Optical Co.*, 240 NLRB 1213 (1979), and minus tax withholdings from the wage payments required by Federal, state, and local laws:³

Milo Alexander	\$107,895	Backpay
		5,573 Pension Fund
		1,971 Annuity Fund

Raymond Ortiz	\$84,986	Backpay
		5,573 Pension Fund
		1,971 Annuity Fund

Total: \$207,969.00

Dated, Washington, D.C. July 10, 1998

Wilma B. Liebman,	Member
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Peter J. Hurtgen,	Member
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J. Robert Brame III,	Member
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³The backpay, pension, and annuity amounts set forth are calculated through June 30, 1997. Because the Respondents have failed to offer reinstatement to Alexander and Ortiz, the backpay and benefits continue to accrue.

(SEAL) NATIONAL LABOR RELATIONS BOARD