

**Sprinturf, Inc. and The Ohio and Vicinity Regional Council of Carpenters.** Case 8-CA-33398

July 9, 2003

DECISION AND ORDER

BY MEMBERS SCHAUMBER, WALSH, AND ACOSTA

The General Counsel seeks a default judgment<sup>1</sup> in this case on the ground that the Respondent failed to file an answer to the complaint. Upon a charge filed by Ohio and Vicinity Regional Council of Carpenters (the Union), on May 23, 2002, the General Counsel issued a complaint on December 18, 2002, against Sprinturf, Inc. (the Respondent), alleging that it has violated Section 8(a)(1) of the Act. The Respondent failed to file an answer.

On January 21, 2003, the General Counsel filed a Motion for Summary Judgment with the Board. On January 22, 2003, 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 filed no response. The allegations in the motion, therefore, are undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint itself states that unless an answer is filed within 14 days of service, the Board may find that the allegations in the complaint are true. Respondent neither filed an answer to the complaint nor requested an extension of time to do so. Further, the undisputed allegations in the Motion for Default Judgment disclose that the Region, by letter dated January 8, 2003, notified Respondent that such a motion would be filed unless an answer was received by January 15, 2003. Again, Respondent neither filed an answer to the complaint nor requested an extension of time to do so.

Accordingly, on this record and in the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's motion.<sup>2</sup>

<sup>1</sup> The General Counsel's motion requests summary judgment on the ground that the Respondent has failed to file an answer to the complaint. Accordingly, we construe the General Counsel's motion as a motion for default judgment.

<sup>2</sup> Member Schaumber concurs in granting the General Counsel's motion, based solely on the undisputed allegations of the complaint, in accord with the Board's traditional practice. However, he invites the Board to reevaluate that practice. In his view, the Board should consider requiring the General Counsel to support a motion for default

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, Respondent Sprinturf, Inc., a Pennsylvania corporation, with an office and place of business in Wayne, Pennsylvania, has been engaged in the constitution and installation of artificial turf used in indoor and outdoor sports' fields, stadiums, playgrounds, and track and field facilities. Respondent, in conducting these business operations, annually derives gross revenues in excess of \$500,000 and performs services valued in excess of \$50,000 in States other than the Commonwealth of Pennsylvania. We find that Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Ohio and Vicinity Regional Council of Carpenters (the Union) is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, Jobsite Foreman Eric Alexander and Jobsite Supervisor Robert Daugherty have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act. On or about May 10, 2002, Respondent, by Jobsite Foreman Alexander, in the presence of employees, ordered the Union's business representatives to leave a jobsite located at Youngstown State University's Stambaugh Field in Youngstown, Ohio. On or about May 22, 2002, Respondent, by Jobsite Supervisor Daugherty, in the presence of employees, ordered the Union's business representatives to leave Stambaugh Field and, thereafter, caused the Youngstown State University Police to remove the Union's business representatives from the area.

CONCLUSION OF LAW

By the acts and conduct described above, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

judgment with the proffer of a simple summary of evidence supporting the complaint.

## ORDER

The National Labor Relations Board orders that the Respondent, Sprinturf, Inc., Wayne, Pennsylvania, its officers, agents, successors, and assigns, shall

## 1. Cease and desist from

(a) Ordering the Union's business representatives, in the presence of employees, to leave its installation sites and causing law enforcement officials to remove the Union's business representatives from these areas.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its facility in Wayne, Pennsylvania and, if possible, at its various jobsites, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 8, after being signed by Respondent's authorized representative, shall be posted by Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, Respondent has gone out of business or closed the facility involved in this proceeding, Respondent shall duplicate and mail, at its own expense, a copy of the no

<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

tice to all current employees and former employees employed the Respondent at any time since May 10, 2002.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

## APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the Federal labor law and has ordered us to post and obey this notice.

## FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT order the Union's business representatives, in the presence of employees, to leave our installation sites or cause law enforcement officials to remove the Union's business representatives from these areas.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

SPRINTURF, INC.