

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIXTEEN**

**TOM ARAND, P.C. d/b/a
ANIMAL CARE CLINIC**

and

Case 16-CA-26387

EQUAL JUSTICE CENTER

**MOTION TO TRANSFER AND CONTINUE CASE
BEFORE THE BOARD AND
MOTION FOR DEFAULT JUDGMENT**

COMES NOW Counsel for the General Counsel, pursuant to Sections 102.20, 102.24, 102.50, 102.54, and 102.56 of the Board's Rules and Regulations, Series 8, as amended, and moves that the proceedings in the above-captioned case be transferred to the Board for a final determination on the basis of the pleadings previously filed. Attached to this Motion as exhibits, and incorporated herein by reference, are copies of the Compliance Specification and Notice of Hearing, and other relevant documents described below.

Counsel for the General Counsel further moves that, upon transfer of the proceedings to the Board, the Board issue an appropriate order to show cause why this motion should not be granted, and that unless Respondent shows good cause for failing to file an answer within the time specified by Sections 102.20 and 102.56 of the Board's Rules and Regulations, all the allegations contained in the Compliance Specification and Notice of Hearing be deemed to be admitted true and an order entered providing for an

appropriate remedy, without the holding of a hearing or without taking evidence in support of the allegations in the Compliance Specification and Notice of Hearing.

In support of this Motion, Counsel offers the following:

1.

On March 31, 2009, the Board issued its Decision and Order, 353 NLRB No. 128, directing Tom Arand, P.C. d/b/a Animal Care Clinic, herein Respondent, to take certain affirmative action, including, *inter alia*, offering Wendy Castellanos and James Turpin full reinstatement and making Castellanos and Turpin whole for losses they suffered as a result of Respondent's unlawful termination in violation of Section 8(a)(1) of the Act. Copy of the Board's Decision and Order is attached hereto as GC Exhibit 1.

2.

On July 22, 2009, the United States Court of Appeals for the Fifth Circuit entered its Judgment, as mandate, enforcing the Board's Order. Copy of the Judgment is attached hereto as GC Exhibit 2.

3.

On February 26, 2010, the Regional Director of Region 16, pursuant to the authority duly conferred upon her by the Board, issued a Compliance Specification and Notice of Hearing (Specification) in Case 16-CA-26387. Said Specification was served on Respondent by certified mail on February 26, 2010. Pursuant to Section 102.56 of the Board's Rules and Regulations, the Specification notified Respondent it must file an Answer within 21 days from the date of the Specification. The Specification notified Respondent that if no Answer is filed, the Board may find, pursuant to a Motion for

Default Judgment that the allegations in the Specification are true. Copies of the Specification and service thereof are attached hereto as GC Exhibits 3 and 4, respectively.

4.

Having received no Answer, on March 23, 2010, Counsel for the General Counsel, via telephone message, notified Respondent that it had failed to file an Answer to the Specification referred to above in paragraph 3.

5.

On March 25, 2010, Respondent, via telephone message, advised that it was working on its Answer and would file such by Monday March 29, 2010. Respondent failed to file such Answer.

6.

On March 30, 2010, Counsel for the General Counsel, via letter, notified Respondent that its Answer had not been received as promised. Counsel again advised Respondent that it had failed to file an Answer to the Specification referred to above in paragraph 3 in accordance with the Board's Rules and Regulations. Counsel further advised Respondent that a Motion for Default Judgment would be filed if Respondent failed to file an Answer before the close of business April 2, 2010. Said Letter was served on Respondent by facsimile, first class U.S. mail and certified mail. Copies of the letter, fax confirmation and service thereof are attached hereto as GC Exhibits 5, 6 and 7, respectively.

7.

On April 1, 2010, Respondent, via telephone message, acknowledged receipt of the letter referenced above in paragraph 6. Respondent advised that it would not be able to file an Answer by April 2, 2010 and could not commit to a date certain as to when it would be able to file an Answer.

8.

Despite having been advised of the consequences, Respondent has failed and refused to file an Answer to the Specification described in paragraph 3 in this matter.

9.

Section 102.56(a) of the Board's Rules and Regulations, Series 8, as amended, provides as follows:

Each respondent alleged in the specification to have compliance obligations shall, within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification, and shall immediately serve a copy thereof on the other parties. The answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the mailing address of the respondent.

10.

Respondent, having been duly served, has failed and refused to file an answer to the Compliance Specification and Notice of Hearing. Therefore, all allegations in the Compliance Specification and Notice of Hearing must be deemed admitted as true and no issue of fact exists warranting or requiring a hearing.

11.

Accordingly, Counsel for the General Counsel submits that the matter is appropriate for final determination upon default judgment without a hearing and that a final order should be entered in accordance with the allegations of the Compliance Specification and Notice of Hearing, without taking evidence or giving Respondent further notice.

DATED at Fort Worth, Texas, this 15th day of April 2010.


Roberto Perez
Counsel for the General Counsel
National Labor Relations Board
Region 16
H.F. Garcia Federal Building & U.S. Courthouse
615 E. Houston St., Suite 401
San Antonio, TX 78205

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion To Transfer And Continue Case Before The Board And Motion For Default Judgment was served upon each of the following by electronic filing/transmission or overnight delivery this 15th day of April 2010:

Dr. Jay Meyer
Animal Care Clinic
1401 South IH-35, Suite 11
Round Rock, TX 78664
via overnight delivery

Equal Justice Center
510 S. Congress Avenue, Suite 206
Austin, TX 78704
To: bill@equaljusticecenter.org

Mr. Michael Murphy, Legal Intern
Equal Justice Center
510 S. Congress Avenue, Suite 206
Austin, TX 78704
To: emichaelandval@austin.rr.com

Dated at Forth Worth, Texas this 15th day of April 2010.



Roberto Perez
Counsel for the General Counsel
National Labor Relations Board
Region 16
H.F. Garcia Federal Building & U.S. Courthouse
615 E. Houston St., Suite 401
San Antonio, TX 78205

TABLE OF GC EXHIBITS

- 1 Board Decision and Order in *Tom Arand, P.C. d/ba/ Animal Care Clinic*, 353 NLRB No. 128 (2009).
- 2 Fifth Circuit Judgment Enforcing an Order of the National Labor Relations Board.
- 3 Compliance Specification and Notice of Hearing dated February 26, 2010.
- 4 Affidavit of Service of 3 dated February 26, 2010.
- 5 March 30, 2010 Letter from Counsel for the General Counsel to Respondent.
- 6 Facsimile Confirmation of 5 to Respondent.
- 7 Certified Mail Receipt and Delivery Confirmation of 5 to Respondent.

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Tom Arand, P.C. d/b/a Animal Care Clinic and Equal Justice Center. Case 16-CA-26387

March 31, 2009

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBER SCHAUMBER

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge and amended charge filed by the Charging Party on August 26 and September 18, 2008, respectively, the General Counsel issued the complaint on December 30, 2008, against Tom Arand, P.C. d/b/a Animal Care Clinic, the Respondent, alleging that it has violated Section 8(a)(1) of the Act. The Respondent failed to file an answer.

On February 9, 2009, the General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on February 12, 2009, 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 filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Default Judgment¹

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 affirmatively stated that unless an answer was received by January 13, 2009, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated January 15, 2009, notified the Respondent that unless an answer was received by January 21, 2009, a motion for default judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer or a response to the Notice to Show Cause, we deem the allegations in the

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Texas corporation, with a principal office and place of business located at 1401 South I H 35, Suite 11, Round Rock, Texas, 78664, has been engaged in business as a veterinary hospital.

During the calendar year preceding issuance of the complaint, a representative period, the Respondent, in conducting its business operations described above, derived gross revenues in excess of \$1,000,000 and purchased and received at its Round Rock, Texas facility products, goods, and materials valued in excess of \$50,000 directly from points located outside the State of Texas.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and/or agents of the Respondent within the meaning of Section 2(13) of the Act:

Teri Burnett Office/Practice Manager
Dr. Jay Meyer President/Owner

On various dates in mid to late June 2008, the Respondent's employees concertedly complained to the Respondent regarding the wages, hours, and working conditions of the Respondent's employees by verbally expressing concerns to Burnett regarding perceived inappropriate conduct and/or favoritism by Meyer towards another employee.

On various dates in July 2008, the Respondent's employees, including Wendy Castellanos, concertedly complained to the Respondent regarding the wages, hours, and working conditions of the Respondent's employees by verbally expressing concerns to Burnett regarding perceived inappropriate conduct and/or favoritism by Meyer towards another employee.

On various dates in early August 2008, the Respondent's employees, including Wendy Castellanos and James Turpin, concertedly complained to the Respondent regarding the wages, hours, and working conditions of the Respondent's employees by verbally expressing concerns to Burnett regarding perceived inappropriate conduct and/or favoritism by Meyer towards another employee.

propriate conduct and/or favoritism by Meyer towards another employee.

About August 20, 2008, the Respondent, by Meyer, orally promulgated and since then has maintained a work rule that prohibits employees from discussing wages and/or other terms and conditions of employment.²

About August 21, 2008, the Respondent discharged employee Wendy Castellanos.

About August 25, 2008, the Respondent discharged employee James Turpin.

The Respondent engaged in the conduct described above because Wendy Castellanos and James Turpin engaged in and/or the Respondent believed that Castellanos and Turpin engaged in the concerted conduct described above and to discourage employees from engaging in these or other concerted activities.

CONCLUSION OF LAW

By the conduct described above, the Respondent has interfered with, restrained, and coerced 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 the 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. Specifically, having found that the Respondent violated Section 8(a)(1) of the Act by discharging Wendy Castellanos and James Turpin because they engaged in and/or the Respondent believed that they engaged in protected concerted activity, we shall order the Respondent to offer these employees full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to

² Although the complaint alleges these facts and requests an affirmative remedy for this allegation, the complaint does not allege that the Respondent's actions in this paragraph constitute an unfair labor practice. In these circumstances, we cannot find an unfair labor practice or provide a remedy for the Respondent's promulgation and maintenance of a work rule prohibiting employees from discussing wages and/or other terms and conditions of employment. Accordingly, the General Counsel's Motion for Default Judgment with respect to this issue is denied. Nothing herein precludes the General Counsel from amending the complaint to allege that the Respondent's promulgation and maintenance of the rule described above violated the Act. In the event that the Respondent again fails to answer, thereby admitting evidence that would permit the Board to find the alleged violation, the General Counsel may renew the Motion for Default Judgment with respect to the amended complaint allegation.

their seniority or any other rights and privileges previously enjoyed, and to make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).³ The Respondent shall also be required to remove from its files any and all references to the unlawful discharges of Castellanos and Turpin, and to notify these employees in writing that this has been done and that the discharges will not be used against them in any way.

ORDER

The National Labor Relations Board orders that the Respondent, Tom Arand, P.C. d/b/a Animal Care Clinic, Round Rock, Texas, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discharging or otherwise discriminating against employees because they engage in and/or the Respondent believes that they have engaged in protected concerted activities, or to discourage employees from engaging in such activities.

(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 from the date of this Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

(b) Make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits suffered as a result of their unlawful discharges, with interest, in the manner set forth in the remedy section of this decision.

(c) Within 14 days from the date of this Order, remove from its files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and within 3 days thereafter, notify these employees in writing that this has been done, and that the unlawful discharges will not be used against them in any way.

³ In the complaint, the General Counsel seeks "interest compounded on a quarterly basis" on all backpay owed to discriminatees. Having duly considered the matter, we are not prepared at this time to deviate from our current practice of assessing simple interest. See, e.g., *Rogers Corp.*, 344 NLRB 504 (2005).

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Round Rock, Texas, copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent's authorized representative, shall be posted by the 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 the 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, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 21, 2008.

(f) 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 the Respondent has taken to comply.

Dated, Washington, D.C. March 31, 2009

Wilma B. Liebman,	Member
Peter C. Schaumber,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

⁴ 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."

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 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 discharge or otherwise discriminate against you because you engage in and/or we believe that you have engaged in protected concerted activities, or to discourage you from engaging in such activities.

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

WE WILL, within 14 days from the date of the Board's Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits resulting from their discharges, less any net interim earnings, plus interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done, and that the unlawful discharges will not be used against them in any way.

TOM ARAND, P.C. D/B/A ANIMAL CARE CLINIC

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

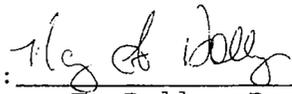
July 22, 2009

Ms. Linda Jill Dreeben
National Labor Relations Board
1099 14th Street NW
Suite 808
Washington, DC 20570-0000

No. 09-60335, NLRB v. Tom Arand P.C.
USDC No. 16-CA-26387

Enclosed herewith is a certified copy of this Court's order entered this date granting the petitioner's application for summary entry of a judgment, together with a certified copy of said judgment.

CHARLES R. FULBRUGE III, Clerk

By: 
Nancy F. Dolly, Deputy Clerk
504-310-7683

cc: w/encl:
Ms. Martha M Kinard
Mr. Tom Arand P.C.

Mandate Issued - MDT-1 (ag,tax)

APPELLATE COURT BRANCH
NLRB
JUL 23 10 00 AM '09
RECEIVED

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 09-60335

NATIONAL LABOR RELATIONS BOARD,

Petitioner

v.

TOM ARAND P.C., doing business as Animal Care Clinic,

Respondent

Petition for Review of an Order of the
National Labor Relations Board

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:

IT IS ORDERED that petitioner's application for summary enforcement is *denied*.

U.S. COURT OF APPEALS
FILED
JUL 22 2009
CHARLES F. FULBROOK III
CLERK

09-60335

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U.S. COURT OF APPEALS
FILED

JUL 22 2009

CHARLES R. FULBRUGE III
CLERK

NATIONAL LABOR RELATIONS BOARD :

Petitioner :

v. :

TOM ARAND P.C. D/B/A
ANIMAL CARE CLINIC :

Respondent :

No.

Board Case No.:
16-CA-26387

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before: JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Tom Arand P.C. d/b/a Animal Care Clinic, its officers, agents, successors, and assigns, enforcing its order dated March 31, 2009, in Case No. 16-CA-27387, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Tom Arand P.C. d/b/a Animal Care Clinic, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

ENTERED: July 22, 2009

NATIONAL LABOR RELATIONS BOARD

v.

TOM ARAND P.C. D/B/A ANIMAL CARE CLINIC

ORDER

The National Labor Relations Board orders that the Respondent, Tom Arand, P.C. d/b/a Animal Care Clinic, Round Rock, Texas, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Discharging or otherwise discriminating against employees because they engage in and/or the Respondent believes that they have engaged in protected concerted activities, or to discourage employees from engaging in such activities.
 - (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 from the date of this Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
 - (b) Make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits suffered as a result of their unlawful discharges, with interest, in the manner set forth in the remedy section of the Board's Decision and Order of March 31, 2009.
 - (c) Within 14 days from the date of this Order, remove from its files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and within 3 days thereafter, notify these employees in writing that this has been done, and that the unlawful discharges will not be used against them in any way.
 - (d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records

and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

- (e) Within 14 days after service by the Region, post at its facility in Round Rock, Texas, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent's authorized representative, shall be posted by the 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 the 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, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 21, 2008.
- (f) 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 the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated 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 discharge or otherwise discriminate against you because you engage in and/or we believe that you have engaged in protected concerted activities, or to discourage you from engaging in such activities.

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

WE WILL, within 14 days from the date of the Board's Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits resulting from their discharges, less any net interim earnings, plus interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done, and that the unlawful discharges will not be used against them in any way.

TOM ARAND, P.C. D/B/A ANIMAL CARE CLINIC

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

**TOM ARAND, P.C. d/b/a ANIMAL
CARE CLINIC**

Respondent

and

Case No. 16-CA-26387

EQUAL JUSTICE CENTER

Charging Party

COMPLIANCE SPECIFICATION AND NOTICE OF HEARING

On March 31, 2009, the National Labor Relations Board, herein called the Board, issued its Decision and Order, 353 NLRB No. 128, directing Tom Arand, P.C. d/b/a/ Animal Care Clinic to take certain affirmative action, including offering Wendy Castellanos and James Turpin full reinstatement, making whole Castellanos and Turpin for losses they suffered as a result of Respondent's unlawful termination of their employment in violation of Section 8(a)(1) of the National Labor Relations Act, expunging their files of all references to the unlawful terminations and notifying them in writing that it has done so, preserving and providing at the request of the Regional Director records needed for analyzing the amount of backpay due, posting the Notice at its facility for 60 days, and filing with the Regional Director a sworn certification of the steps taken to comply.

The United States Court of Appeals for the Fifth Circuit, herein called the Court, on July 22, 2009, entered its Judgment, as mandate, enforcing the Board Order.

As Respondent has failed to take any of the action required to comply with the Court-enforced Board Order, the Regional Director of the National Labor Relations Board for Region 16, pursuant to the authority duly conferred on her by the Board, hereby issues this Compliance Specification and Notice of Hearing and alleges as follows:

1. At all material times, Respondent has been engaged in business as a veterinary hospital in Round Rock, Texas.

2. (a) In its March 31, 2009 Order, the Board ordered Respondent to preserve and, within 14 days of a request, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of its Order.

(b) In its July 22, 2009 Judgment, the Court ordered Respondent to preserve and, within 14 days of a request, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of its Judgment.

(c) By letter dated July 28, 2009, which is attached as Exhibit C, Respondent was asked to provide weekly payroll records from February 21, 2008 to date for the purpose of calculating backpay due to the discriminatees.

(d) By letter dated October 1, 2009, which is attached as Exhibit D, Respondent was asked to provide weekly payroll records from February 1, 2008 to date for the purpose of calculating backpay due.

(e) By letter dated January 13, 2010, which is attached as Exhibit E, Respondent was asked to provide weekly payroll records from February 1, 2008, to date for the purpose of calculating backpay due.

(f) To date, Respondent has failed to provide the documents set forth above in paragraphs 2(c), 2(d) and 2(e).

(g) As Respondent has failed to provide the documents as ordered by the Board and Court and requested by the Regional Director, Respondent should be precluded from introducing any of these documents in support of its position on the gross backpay formula set forth herein.

3. (a) The backpay period for Castellanos begins on August 21, 2008 and continues until Respondent makes a valid offer of reinstatement.

(b) The backpay period for Turpin begins on August 25, 2008 and continues until Respondent makes a valid offer of reinstatement.

4. An appropriate measure of the earnings each discriminatee would have received during the respective backpay period is the amount they would have earned if they were continually employed by Respondent.

5. (a) The gross backpay each discriminatee would have earned is the sum of calendar quarter regular earnings and is set forth in Exhibits A and B.

(b) Regular earnings are computed by multiplying the number of weeks of backpay in each calendar quarter by the number of hours each discriminatee would have worked per week by the hourly wage rate of each discriminatee.

6. (a) The average number of hours which would have been worked per week by Castellanos is 9.

(b) The average number of hours which would have been worked per week by Turpin is 39.

7. (a) The hourly wage rate which would have been paid to Castellanos is \$10.65.

(b) The hourly wage rate which would have been paid to Turpin is \$13.00.

8. Calendar quarter interim earnings are the wages the discriminatees received from interim employers during the backpay period, computed on a quarterly basis. Calendar quarter interim earnings are set forth in Exhibits A and B.

9. During the backpay period, the discriminatees incurred calendar quarter expenses as set forth in Exhibits A and B.

10. Calendar quarter net interim earnings are the difference between calendar quarter interim earnings and calendar quarter interim expenses and are set forth in Exhibits A and B.

11. The calendar quarter net backpay due each discriminatee is the difference between the discriminatee's calendar quarter gross backpay and calendar quarter net interim earnings. The calendar quarter net backpay due each discriminatee is set forth in Exhibits A and B.

12. Discriminatees are entitled to reimbursement for veterinary expenses incurred during their respective backpay periods, to the extent that such expenses exceed the costs which the discriminatees would have paid if still employed by Respondent, as set forth in Exhibits A and B.

Summarizing the facts and calculations specified above and in Exhibits A and B, the obligation of Respondent to comply with the Board Order and Court Judgment will be discharged by the following:

- (a) full reinstatement of Castellanos and Turpin to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed;
- (b) payment to the discriminatees of \$27,852.09 in net backpay as described in Exhibits A and B, less the withholding required by Federal and state laws, plus interest accrued to the date of payment;
- (c) payment to the discriminatees of \$446.49 for veterinary expenses as described in Exhibits A and B, plus interest accrued to the date of payment;
- (d) removal from Respondent's files of all references to the unlawful discharges of the discriminatees;
- (e) written notification to the discriminatees that all references to their unlawful discharges have been removed from Respondent's files and that the discharges will not be used against them in any way;
- (f) posting of the Notice for 60 consecutive days in conspicuous places in Respondent's Round Rock, Texas, facility; and
- (g) filing with the Regional Director the sworn certification setting forth the steps taken to achieve compliance.

Backpay, expenses, and interest continue to accrue until Respondent makes a valid offer of reinstatement to the discriminatees.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on the 10th day of May, 2010, at 9:00 a.m. and consecutive days thereafter until concluded, at a location to be determined, a hearing will be conducted before a duly designated administrative law judge of the National Labor Relations Board on the allegations set forth in the above Specification, at which time you will have the right to appear in person, or otherwise, and give testimony.

ANSWER REQUIREMENT

You are further notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, Respondent shall, within 21 days from the date of the Specification, file with the undersigned Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four (4) copies of an answer to the Specification and shall immediately serve a copy thereof on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. When the answer is filed electronically, an original and four paper copies must be sent to this office so that it is received no later than three business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Specification are true.

To the extent that such answer fails to deny allegations of the Specification in the manner required under the Board's Rules and Regulations and the failure to do so

is not adequately explained, such allegations shall be deemed to be admitted to be true and Respondent shall be precluded from introducing any evidence controverting them.

DATED at Fort Worth, Texas, this 26th day of February, 2010.



Martha Kinard, Regional Director
National Labor Relations Board, Region 16
819 Taylor Street, Room 8A24
Fort Worth, Texas 76102

Attachments

Case Name Tom Arand, P.C. d/b/a Animal Care Clinic
 Case Number: 16-CA-26387
 Claimant: Wendy Castellanos

Backpay period from 8/21/2008 to continuing

Year Qtr.	Gross Backpay Calculation				Interim Earnings Calculation			Net Backpay	Medical & Other Expenses	Total Backpay
	Weeks	Hours/ Week	Hourly Rate	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings			
2008-3	5	9.0	10.65	479.25						
Quarter total				479.25	-	-	-	479.25	-	479.25
2008-4	13	9.0	10.65	1,246.05					68.00	
Quarter total				1,246.05	-	-	-	1,246.05	68.00	1,314.05
2009-1	13	9.0	10.65	1,246.05					284.50	
Quarter total				1,246.05	-	-	-	1,246.05	284.50	1,530.55
2009-2	13	9.0	10.65	1,246.05					93.99	
Quarter total				1,246.05	-	-	-	1,246.05	93.99	1,340.04
2009-3	13	9.0	10.65	1,246.05						
Quarter total				1,246.05	-	-	-	1,246.05	-	1,246.05
2009-4	13	9.0	10.65	1,246.05						
Quarter total				1,246.05	-	-	-	1,246.05	-	1,246.05
2010-1	8	9.0	10.65	766.80	351.51					
Quarter total				766.80	351.51	-	351.51	415.29	-	415.29

Total	7,124.79	446.49	7,571.28
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Case Name Tom Arand, P.C. d/b/a Animal Care Clinic
Case Number: 16-CA-26387
Claimant: James Turpin

Backpay period from: 8/25/2008 to continuing

Year Qtr.	Gross Backpay Calculation				Interim Earnings Calculation			Net Backpay	Medical & Other Expenses	Total Backpay
	Weeks	Hours/ Week	Hourly Rate	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings			
2008-3	5	39.0	13.00	2,535.00	1,116.00	376.74				
Quarter total				2,535.00	1,116.00	376.74	739.26	1,795.74	-	1,795.74
2008-4	13	39.0	13.00	6,591.00	2,400.00	457.47				
Quarter total				6,591.00	2,400.00	457.47	1,942.53	4,648.47	-	4,648.47
2009-1	13	39.0	13.00	6,591.00	3,795.84	726.00				
Quarter total				6,591.00	3,795.84	726.00	3,069.84	3,521.16	-	3,521.16
2009-2	13	39.0	13.00	6,591.00	4,272.48	858.00				
Quarter total				6,591.00	4,272.48	858.00	3,414.48	3,176.52	-	3,176.52
2009-3	13	39.0	13.00	6,591.00	4,477.59	858.00				
Quarter total				6,591.00	4,477.59	858.00	3,619.59	2,971.41	-	2,971.41
2009-4	13	39.0	13.00	6,591.00	4,563.00	858.00				
Quarter total				6,591.00	4,563.00	858.00	3,705.00	2,886.00	-	2,886.00
2010-1	8	39.0	13.00	4,056.00	2,808.00	480.00				
Quarter total				4,056.00	2,808.00	480.00	2,328.00	1,728.00	-	1,728.00

Total	20,727.30	-	20,727.30
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United States Government

NATIONAL LABOR RELATIONS BOARD

Region 16

819 Taylor Street – Room 8A24

Fort Worth, TX 76102-6178

Telephone: (713)209-4885

Facsimile: (713)209-4890

July 28, 2009

Animal Care Clinic
Attn: Dr. Jay Meyer, Owner
1401 S. IH-35, Suite 11
Round Rock, Texas 78664

Re: Tom Arand, P.C. d/b/a Animal
Care Clinic
Case 16-CA-26387
353 NLRB No. 128

Dear Dr. Meyer:

On July 22, 2009, the Fifth Circuit Court of Appeals issued its Judgment Enforcing an Order of the National Labor Relations Board. The Board Order, which issued on March 31, 2009, found that Respondent violated Section 8(a)(1) by discharging Wendy Castellanos and James Turpin. Copies of the Court Judgment and the Board Order are enclosed.

It is ordered that, within 14 days, Respondent offer Castellanos and Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions. It is ordered that Respondent make Castellanos and Turpin whole for any losses of earnings or other benefits with interest. Compliance Officer Charlene Donovan is calculating backpay and interest and will advise you of the amount due to Castellanos and Turpin as soon as possible.

It is also ordered that, within 14 days, Respondent remove from its files any references to the unlawful discharges of Castellanos and Turpin. Pursuant to the Order, within 3 days thereafter, Respondent must notify Castellanos and Turpin in writing that these references have been removed from their files and that the unlawful discharges will not be used against them in any way.

The Order requires that Respondent preserve and provide records to the Region which may be necessary to analyze the amount of backpay due. Please provide a copy of the weekly payroll records from February 21, 2008, through today to Compliance Officer Donovan at the Houston Resident Office, 1919 Smith Street, Suite 1545, Houston, Texas 77002, by August 11, 2009.

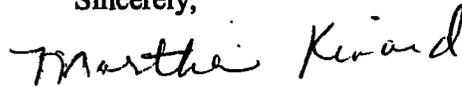
Exhibit C

The Order provides that, within 14 days of service by the Region, Respondent post the required Notice at its facility. Enclosed is the Notice that Respondent is required to post, together with posting instructions and a Notice Posting Report Form. Please follow the posting instructions carefully and return the Notice Posting Report Form to Compliance Officer Donovan in the Houston Resident Office along with three original signed and dated Notices by close of business on August 11, 2009.

Also, the Order requires that Respondent file with the Region within 21 days of receipt of this letter a sworn certification attesting to the steps that Respondent has taken to comply. Enclosed is a Certification of Compliance form for that purpose. Please complete the Certification of Compliance form and return it to Compliance Officer Donovan in the Houston Resident Office by close of business on August 18, 2009.

If you have any questions concerning the compliance requirements, please call Compliance Officer Donovan at 713-209-4885.

Sincerely,

A handwritten signature in cursive script that reads "Martha Kinard".

Martha Kinard
Regional Director

Enclosures

CERTIFIED MAIL



United States Government

**NATIONAL LABOR RELATIONS BOARD
Region 16 Houston Resident Office
Mickey Leland Federal Building -- Suite 1545
1919 Smith Street
Houston, Texas 77002
Telephone: (713) 209-4885
FAX: (713) 209-4890**

October 1, 2009

Dr. Jay Meyer
Animal Care Clinic
1401 S. IH-35, Suite 11
Round Rock, TX 78664

Re: Animal Care Clinic
Case 16-CA-26387

Dear Dr. Meyer:

Pursuant to our telephone conversation today, I have enclosed a copy of the letter which was sent to you on July 28, 2009, requesting compliance with the Court-enforced Board Order.

Please take the following steps immediately to comply with the Court Order.

- 1) Follow the enclosed notice posting instructions. After you sign and date the Notice, post it at your facility. Return three signed and dated Notices to this office along with the completed Notice Posting Report form. These documents must be returned to my office by October 15, 2009.
- 2) Remove from your files all references to the terminations of Wendy Castellanos and James Turpin. Advise Castellanos and Turpin in writing that the references to their terminations have been removed from the files and will not be used against them in any way. Send a copy of the written notifications to Castellanos and Turpin to this office no later than October 15, 2009.
- 3) The Court-enforced Board Order requires reinstatement of Castellanos and Turpin. You informed me today that you are unable to reinstate them as you have reduced your workforce due to the economic downturn. You must provide evidence to establish this.

Please provide me with copies of weekly payroll records from February 1, 2008, to date.

Exhibit D

Additionally, you should provide copies of any reports or documents which show the volume of work since February 1, 2008. Please provide these documents by October 22, 2009.

- 4) You are also required to pay backpay and interest to Castellanos and Turpin for their losses since the terminations. I will use the weekly payroll records since February 1, 2008, to calculate backpay.

As you advised that the Employer is having financial difficulties please provide financial records to support this claim. Please send me copies of the following records:

1. Copies of all bank statements, including cancelled checks and deposit slips, of all bank accounts held by Respondent for the period from February 1, 2008, to date.
2. Any financial statements of Respondent prepared by an outside certified public accountant or bookkeeping firm for the period from February 1, 2008, to date.
3. Internal financial reports, ledgers and other records of income and expenses of Respondent for the period from February 1, 2008, to date.
4. Records of any property holdings and other assets, such as real estate, equipment and vehicles, and accounts receivable, for Respondent for the period from February 1, 2008, to date.

Please provide these records by October 22, 2009.

If you need additional time to produce the requested records, please call me so that we can discuss an extension of time.

Sincerely,



Charlene Donovan
Compliance Officer

CD/tf

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Contempt Litigation and Compliance Branch

1099 14th Street, N. W. -- Suite 10700

Washington, D.C. 20005

FAX (202) 273-4244

Barbara.O'Neill@nlr.gov

January 13, 2009

Animal Care Clinic
Attn: Dr. Jay Meyer, Owner
1401 S. IH-35, Suite 11
Round Rock, Texas 78664

Transmitted via Federal Express

Re: Case No. 09-60335, *NLRB v. Tom Arand, P.C.*
d/b/a Animal Care Clinic (5th Cir.)
Board Case No. 16-CA-26387

Dear Mr. Meyer:

The Board's Region 16 has referred this matter to our office with a recommendation that we institute contempt proceedings against you and your company, Animal Care Clinic, for your failure and refusal to comply with the United States Court of Appeals for the Fifth Circuit's July 22, 2009 Judgment, enforcing the March 31, 2009 Board's Decision and Order. A copy of the Judgment and the Board Decision and Order are enclosed for your convenience.

By letters dated July 28 and October 1, 2009, the Board's Region 16 advised you of the steps you needed to take to comply with the Judgment, including providing you with the Notice to Employees to be posted, posting instructions, a Notice Posting Report Form, Certification of Compliance form, and a request for payroll and other records. Enclosed for your convenience are additional copies. It is our understanding that you have not taken any steps to comply with the Judgment. Nor have you provided the Region with any of the information it has requested, including the payroll information that you are required to provide pursuant to the Court Judgment.¹

¹ The Region's letters of July 28 and October 1, 2009, requested payroll and other financial information from February 1, 2008 to the date of the letters. Due to the passage of time, you now need to produce the requested payroll and other financial information from February 1, 2008 to the present date, i.e., the most up-to-date, current information you can provide.

In the event we determine that contempt proceedings should be instituted against your company, you should know that such a proceeding could result in the imposition of fines and an award of attorneys' fees and costs against your company. In addition, contempt proceedings may result in the assessment of fines and/or imprisonment against you, and/or any other individual officer or agent of the company, should noncompliance with the Judgment persist.

The purpose of this letter is two fold. First, to give you one more opportunity to take steps to comply. Please take steps to comply and provide evidence of such compliance to the Board's Region 16 by close of business Friday, January 22, 2010. If you have any questions related to compliance feel free to contact the undersigned or the Board's Region 16 Compliance Officer Charlene Donovan at 713-209-4885.

Secondly, to the extent you are unable and/or unwilling to comply, please provide us with a written position and/or explanation, including any evidence, legal argument and case authority that you would like us to consider. We would like this response no later than close of business Friday, January 22, 2010. In this respect, we understand that you believe Turpin has lost his right to be reinstated due to some inappropriate emails and/or other conduct since his discharge. Compliance Officer Donovan has asked you for this evidence and you have so far declined to provide it. You must provide us with this evidence by Friday, January 22, 2010. We also understand that at some point you indicated to Compliance Officer Donovan that you were financially unable to reinstate and/or provide backpay to Castellanos and Turpin due to a downturn in business. If you are asserting a financial inability to pay, the burden is on you to prove this to our Agency. In order to meet this burden, you must be able to show "categorically and in detail" why you are unable to comply with that aspect of the Judgment. See NLRB v. Laborers' Intern. Union of N. America, 882 F.2d 949, 952 (5th Cir. 1989); NLRB v. Sally Lyn Fashions, 112 LRRM 3039, 3053-54 (3d Cir. 1982); NLRB v. Trans-Ocean Export Packing, Inc., 473 F.2d 612, 616 (9th Cir. 1973); NLRB v. Bultman Enterprises, Inc., 951 F. Supp. 307, 312 (D. P.R. 1996); NLRB v. Perschke Hay & Grain, 115 LRRM 3108 (N.D. Ind. 1983). In Compliance Officer Donovan's October 1, 2009 letter, she requested additional financial information to support this assertion. So far, you have declined to produce this information. Please do so by January 22, 2010.²

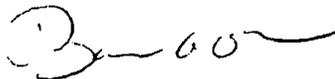
If we do not receive any evidence of compliance and any of the requested information by January 22, 2010, we will have no alternative but to assume that you do not intend to comply with our requests or the terms of the Judgment. In such circumstances we will have no alternative but to continue to investigate this matter in contempt and to take appropriate action to protect the Board's interests.

² See footnote 1 for the time period to produce the payroll and other financial documents.

January 13, 2010

If you have any questions, and/or would like to discuss this matter further, please feel free to contact the undersigned or Compliance Officer Charlene Donovan (713-209-4885).

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara A. O'Neill", with a long horizontal flourish extending to the right.

Barbara A. O'Neill
Managing Attorney
(202) 273-2958

Enclosures

cc: Region 16, Compliance Officer Charlene Donovan

[animalcarelet]

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TOM ARAND, P.C. D/B/A ANIMAL CARE CLINIC

and

EQUAL JUSTICE CENTER

CASE 16-CA-26387

DATE OF MAILING February 26, 2010

AFFIDAVIT OF SERVICE OF COMPLIANCE SPECIFICATION AND NOTICE OF HEARING
With Form NLRB 4668 Attached

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by postpaid regular mail upon the following persons, addressed to them at the following addresses:

Served by certified mail:

Dr. Jay Meyer
Tom Arand, P.C. d/b/a Animal Care Clinic
1401 S. IH-35, Suite 11
Round Rock, TX 78664
Certified No. 7003 1010 0004 3837 5671

Equal Justice Center
510 S. Congress Avenue, Suite 206
Austin, TX 78704
Certified No. 7003 1010 0004 3837 5688

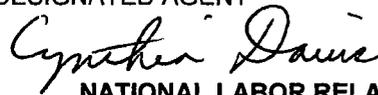
Served by regular mail:

Mr. Michael Murphy
Legal Intern
510 S. Congress Avenue, Suite 206
Austin, TX 78704



Subscribed and sworn to before me this 26th day
of February, 2010

DESIGNATED AGENT



NATIONAL LABOR RELATIONS BOARD

MAILED



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 16

H.F. Garcia Federal Building & U.S. Courthouse

615 E. Houston Street, Suite 401

San Antonio, TX 78205

210-472-6140 fax 210-472-6143

Agency Web Site: www.nlr.gov

Telephone: 210-472-6120

March 30, 2010

*VIA U.S. MAIL and
FACSIMILE to (512) 388-2655*

Animal Care Clinic
Attn: Dr. Jay Meyer, Owner
1401 South IH-35, Suite 11
Round Rock, TX 78664

Re: Tom Arand, P.C. d/b/a
Animal Care Clinic
Case No. 16-CA-26387
353 NLRB No. 128

Dear Dr. Meyer:

On February 26, 2010, this Agency issued a Compliance Specification and Notice of Hearing (Specification) in the above captioned case. The Specification set a hearing date of May 10, 2010 and, pursuant to the Board's Rules and Regulations, notified you of your responsibility to file an Answer in response to the Specification. The Specification further notified you that if no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Specification are true. The deadline for filing the Answer was March 19, 2010 and to date this Agency has not received your Answer.

On March 23, 2010, via telephone messages, I notified you of your failure to file an Answer to the Specification and advised that the failure to file would result in the filing of a Motion for Default Judgment. I asked that you contact me by March 24, 2010 to advise of any questions regarding the filing of an Answer and/or your intent on filing on Answer.

GC Exhibit 5

SECRET

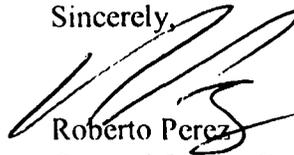
On March 25, 2010, via telephone message, you advised that you were working on your response and would file an Answer by Monday March 29, 2010.

To date this Agency has not received your Answer. Please be advised that if your Answer to the Specification is not received by the close of business on April 2, 2010, a Motion for Default Judgment will be filed.

If you have any questions, please contact me at 210-472-6120.

Thank you for your prompt attention to this matter.

Sincerely,

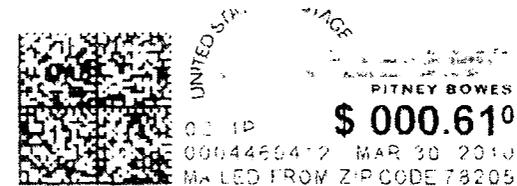
A handwritten signature in black ink, appearing to read 'Roberto Perez', written over the printed name.

Roberto Perez
Counsel for the General Counsel

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 16 - RESIDENT OFFICE
GARCIA FEDERAL BUILDING
615 EAST HOUSTON STREET - SUITE 401
SAN ANTONIO, TX 78205-2039

An Equal Opportunity Employer

OFFICIAL BUSINESS



Animal Care Clinic
Attn: Dr. Jay Meyer, Owner
1401 South IH-35, Suite 11
Round Rock, TX 78664

MODE = MEMORY TRANSMISSION START=MAR-30 11:54 END=MAR-30 11:55

FILE NO.=590

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	*	915123882655	003/003	00:00:48

-SAN ANTONIO RO REGION 16 -

***** -210 472 6143 - ***** 210 472 6143- *****



United States Government

NATIONAL LABOR RELATIONS BOARD
H.F. Garcia Federal Building & U.S. Courthouse
615 E. Houston Street, Suite 401
San Antonio, TX 78205
210-472-6140 fax 210-472-6143

FACSIMILE TRANSMISSION COVER SHEET

TO:	Dr. Jay Meyer
FAX:	512-388-2655
FROM:	Robert Perez, Esq.
PHONE:	210-472-6120
FAX:	210-472-6143
CONFIRMATION:	210-472-6140
DATE:	March 30, 2010
PAGES, INCLUDING COVER:	3

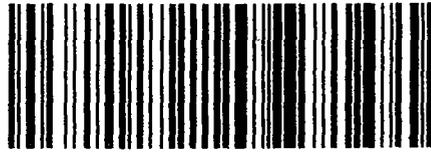
WARNING: Most Fax machines produce copies on thermal paper. The image produced may be highly unstable and may deteriorate significantly in a few years. It should be copied on a plain paper copier if it is to be filed as an official NLRB record.

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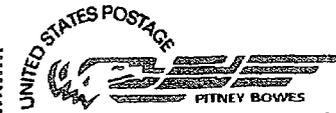
CERTIFIED MAIL

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 16
819 TAYLOR STREET - ROOM 8A24
FORT WORTH, TX 76102-6178
An Equal Opportunity Employer

OFFICIAL BUSINESS



7008 2810 0001 8899 1132



02 1M
0004265684 MAR 30 2010
MAILED FROM ZIP CODE 76102

GC Exhibit 7

Animal Care Clinic
Attn: Dr. Jay Meyer, Owner
1401 South IH-35, Suite 11
Round Rock, TX 78664

[Track & Confirm](#)

[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: **7008 2810 0001 8899 1132**
Service(s): **Certified Mail™**
Status: **Delivered**

Your item was delivered at 12:38 PM on April 2, 2010 in ROUND ROCK, TX 78664.

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Enter Label/Receipt Number.

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Promoting the Best

 American Legion
General Promoting Integrity