United States Government

NATIONAL LABOR RELATIONS BOARD
Region Four
615 Chestnut Street - Seventh Floor
Philadelphia, PA 19106-4404

April 15, 2011

Lester A. Heltzer, Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, DC 20570

e-filed

Re: John Succi Contracting, Inc. d/b/a John Succi General Contractors a/k/a Succi, John General Contractors, JS Contractors and Builders, Inc. t/a Succi Contractors and Builders, Inc.
Case 4-CA-36427

Dear Executive Secretary Heltzer:

Enclosed please find Counsel for the Acting General Counsel's Motion for Default Judgment (including attachments thereto) in the above-referenced case.

Copies of the above Motion have been served this day on the above-referenced Respondent by certified and regular first class mail, and upon Counsel for the Charging Party by e-mail.

Very truly yours,

MARGARITA NAVARRO-RIVERA
Counsel for the Acting General Counsel

cc:
Steven Holroyd, Esquire, sholroyd@jslex.com
John Succi General Contracting, 432 Schindler Drive, Yardley, Pennsylvania 19067–4563 (7010 0780 0001 0353 0010 RRR)
John Succi, President, John Succi Contracting, Inc. d/b/a John Succi General Contractors t/a Succi Contractors and Builders, 225 Lincoln Highway, Fairless Hills, PA 19030 (7010 0780 0001 0353 0027 RRR)

MNR/tsl

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a
JOHN SUCCI GENERAL CONTRACTORS a/k/a
SUCCI, JOHN GENERAL CONTRACTORS and
JS CONTRACTORS AND BUILDERS, INC. t/a
SUCCI CONTRACTORS AND BUILDERS

and

Case 4-CA-36427

METROPOLITAN REGIONAL COUNCIL OF
CARPENTERS, SOUTHEASTERN PENNSYLVANIA,
STATE OF DELAWARE AND EASTERN SHORE
OF MARYLAND

MOTION FOR DEFAULT JUDGMENT

Counsel for the Acting General Counsel, pursuant to Sections 102.24, 102.54, 102.56 and 102.59 of the Rules and Regulations of the National Labor Relations Board (herein called the Rules and the Board, respectively), hereby moves for Default Judgment and requests the Board to transfer, and continue before the Board, the Compliance Specification issued herein and the proceedings related thereto. In support of the Motion, Counsel for the Acting General Counsel avers as follows:

1. The Compliance Specification and Notice of Hearing in this matter issued on February 24, 2011, and was served by certified mail on Respondent John Succi Contracting, Inc. d/b/a John Succi General Contractors a/k/a Succi, John General Contractors, herein collectively called Respondent, and on JS Contractors and Builders, Inc. t/a Succi Contractors and Builders, an alleged alter ego of Respondent , herein called JS or Respondent. Respondent was directed to file an Answer to the Compliance Specification within 21 days from the service thereof (on or before March 17, 2011) as required by Section 102.56 of the Rules.

2. Respondent, by its attorney who has since withdrawn his appearance in this matter, requested, was granted, two extensions of time (on March 18, 2011 and on March 24, 2011) to file the Answer. The hearing on the Compliance Specification is currently postponed until further notice. Copies of the Compliance Specification, the affidavit of service thereof, the Postal Service Domestic Return Receipts evidencing service of the Compliance Specification and Notice of Hearing, the United States Postal Service Track and Confirm form showing service at one of Respondent's two addresses (the other such form showing that the Compliance Specification was unclaimed), the requests and Orders granting extensions of time to Respondent to file its Answer, the Affidavits of Service of these Orders, the Order Postponing Hearing Until Further Notice and the Affidavit of Service of the Order Postponing are attached hereto and marked as Exhibits 1 through 11, respectively.

3. The time for filing an answer under the Rules expired on April 3, 2011.

4. By letter dated April 7, 2011, Respondent was advised that its Answer to the Compliance Specification had not been received and that unless Respondent filed its Answer by April 14, 2011, the instant Motion would be filed. The letter was served by first class mail to Respondent at the two addresses known to Counsel for the Acting General Counsel. An additional copy of the Compliance Specification was enclosed in the letter as were portions of the Board's Rules concerning the filing of answers to compliance specifications. A copy of the letter (without the attached Compliance Specification but with the portion of the Rules, is attached hereto and marked as Exhibit 12.

5. Respondent has failed to file an Answer to the Compliance Specification.

6. It is therefore submitted that Respondent has failed to comply with the Rules concerning the filing of an Answer and, accordingly, the allegations of the Compliance

Specification Complaint should be deemed to be found to be true pursuant to Section 102.56(c) of the Rules.

7. **NOW THEREFORE,** the undersigned Counsel for the Acting General Counsel moves that: (1) the Compliance Specification in this proceeding be transferred to and continued before the Board; (2) the Board find the allegations of the Compliance Specification to be true; (3) the Board issue a Decision finding and concluding, *inter alia,* that the obligation of Respondent to remedy its violation of the Act through November 7, 2008[1] will be fulfilled by payment of backpay to ***Joseph Perri*** in the amount of ***$25,993.43***, to ***Kenneth Whittaker*** in the amount of ***$13,312.50***, and to ***Matthew Whittaker*** in the amount of ***$10,369.00***, plus interest accruing on these amounts until the date of the payment; and (4) that the Board issue an Order requiring Respondent to make these payments.

Respectfully submitted this 15th day of April, 2011.

MARGARITA NAVARRO-RIVERA
Counsel for the General Counsel
National Labor Relations Board
Fourth Region
(215) 597-7647

[1] As described in paragraphs 16 through 18 of the Compliance Specification, the backpay periods of Joseph Perri, Kenneth Whittaker and Matthew Whitaker remain open because they have not received offers of reinstatement.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a
JOHN SUCCI GENERAL CONTRACTORS a/k/a
SUCCI, JOHN GENERAL CONTRACTORS and
JS CONTRACTORS AND BUILDERS, INC. t/a
SUCCI CONTRACTORS AND BUILDERS

and

Case 4-CA-36427

METROPOLITAN REGIONAL COUNCIL OF CARPENTERS,
SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE
AND EASTERN SHORE OF MARYLAND

COMPLIANCE SPECIFICATION AND NOTICE OF HEARING

The National Labor Relations Board, herein called the Board, having issued its Decision and Order [354 NLRB No. 38] in Case 4-CA-36427 on June 30, 2009, directing John Succi Contracting, Inc. d/b/a John Succi General Contractors a/k/a Succi, John General Contractors, herein called Respondent, inter alia, to make whole Joseph Perri,[1] Kenneth Whittaker and Matthew Whittaker, herein called Perri, K. Whittaker and M. Whittaker, respectively, and herein also collectively called the discriminatees, for any loss of earnings and other benefits they suffered as a result of Respondent's discrimination against them in violation of Section 8(a)(1) and (3) of the National Labor Relations Act, herein called the Act; the United States Court of Appeals for the Third Circuit, on June 9, 2010, having entered its Judgment enforcing the Board's Order; a controversy having arisen over whether JS Contractors and Builders, Inc. t/a Succi Contractors and Builders, herein called JS, is an alter ego to Respondent with liability for fulfilling the remedial obligations of the Board's Order as enforced; and a further controversy having arisen over the amounts of backpay due under the terms of the Board's Order as enforced, the Regional Director of the Board for the Fourth Region, hereby issues this Compliance Specification and Notice of Hearing and alleges as follows:

JS ALTER EGO STATUS

1. At all material times, and continuing until in or around January 2009, Respondent, a corporation with a place of business at 432 Schindler Drive, Yardley, Pennsylvania, was engaged in business as a general contractor providing construction services primarily for residential customers in the greater Bucks County, Pennsylvania area.

[1] Perri's surname was misspelled as Perry in the Board's Decision and Order.

EXHIBIT #1

2. On or about January 26, 2009, JS, a corporation, with a place of business initially located at 432 Schindler Drive, Yardley, Pennsylvania began engaging in business as a general contractor providing construction services primarily for residential customers in the greater Bucks County, Pennsylvania area. JS continues to operate as a general contractor at 225 Lincoln Highway, Fairless Hills, Pennsylvania.

3. At all material times, John Succi, herein called Succi, has been the President of Respondent, the sole manager and supervisor of Respondent and the owner of 100 percent of Respondent's stock. Succi had exclusive control over Respondent's operations and finances.

4. Since the inception of JS, Succi has been the Vice President of JS, the sole supervisor for work performed by JS, and the owner of 49% of JS' stock.

5. At all material times, Corey Scott, herein called Scott, has been the President of JS and the owner of 51% of JS' stock.

6. Since the inception of JS, Succi has exercised control over JS' operations and finances, including controlling JS' bank account, controlling the collection and disbursement of all of JS' business-related revenue, handling the day-to-day interactions and business relationships with JS' customers, hiring, supervising and managing JS' employees and subcontractors, securing JS' supplies, and overseeing all phases of JS' construction work.

7. Respondent employed Nelson Dominguez, herein called Dominguez, and Santos Vasquez, herein called Vasquez, as laborers until in or around December 2008 or January 2009. Dominguez and Vasquez were the last two employees known to have worked for Respondent.

8. In January 2009, after experiencing a brief interruption in their employment for Respondent, Dominguez and Vasquez were employed by JS.

9. In November 2008, Respondent began working on a project for a residential customer in Pipersville, Pennsylvania. Respondent worked on this project until in or around January 2009.

10. Beginning in February 2009, JS continued the work that had been initiated by Respondent on the project referenced above in paragraph 9.

11. When JS began operating, it used the same hand tools, scaffolding, and trucks that had been used by Respondent in its business. In performing its construction business, JS utilizes the same type of equipment and tools that Respondent had used in operating its business.

12. At material times since its inception, JS has used the services of the same accountant that had performed services for Respondent in 2008.

13. At material times since its inception, JS used the business phone number that had formerly been used by Respondent.

14. Since January 26, 2009, JS has been established as a disguised continuation of Respondent, with substantially identical ownership, management, supervision, business purpose, operation, equipment and customers.

15. Based on the conduct of their business operations described above in paragraphs 1 through 14 above, JS is and has been Respondent's alter ego, and accordingly, JS is jointly and severally liable with Respondent for fulfilling the remedial obligations set forth in the Board's enforced Order.

THE DISCRIMINATEES' BACKPAY PERIODS

16. The backpay periods for Perri, K. Whittaker and M. Whittaker began on October 24, 2008, when Respondent laid them off, and their backpay periods will continue until Respondent offers each of them full reinstatement to their former positions, or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed by them. This Compliance Specification covers the portion of their backpay periods running from the fourth quarter of 2008 through the fourth quarter of 2010. If necessary, a subsequent Compliance Specification may be issued to cover backpay periods after the fourth quarter of 2010.

BACKPAY OWED TO THE DISCRIMINATEES

Perri

17. (a) For the fourth quarter 2008, Perri's gross backpay calculations are based on Respondent's payroll records showing Perri's weekly earnings beginning with the paycheck dated July 3, 2008 and ending with the paycheck dated October 24, 2008 when he was unlawfully laid off. Perri's average weekly earnings were calculated for all of the weeks that he worked during this period. The calculations of his average weekly earnings are set forth in Exhibit 1. Perri's quarterly gross backpay for the fourth quarter of 2008 was calculated by multiplying his average weekly earnings by the number of weeks he would have worked during the fourth quarter after October 24, 2008.

(b) Perri would have worked 9.6 weeks from October 24, 2008 through December 31, 2008.

(c) Perri was employed by Respondent as a laborer. As set forth above in paragraph 7, Dominguez and Vasquez were employed by Respondent as laborers. Dominguez and Vasquez began working for JS in or around January 2009. For the first quarter of 2009, Perri's quarterly gross backpay was calculated by averaging the first quarter 2009 earnings that comparator employees Dominguez and Vasquez received from JS.

(d) Because Dominguez's employment ceased during the second quarter of 2009, he was not used as a comparator for the second or third quarter of 2009. For the second and third quarters of 2009, Perri's quarterly gross backpay was determined exclusively by using the earnings that Vasquez received from JS for each of these quarters.

(e) As of the fourth quarter of 2009, Vasquez was no longer employed by JS. For the period from the fourth quarter of 2009 through the fourth quarter of 2010, JS did not provide sufficient information for the Acting General Counsel to determine which employees comparable to Perri were employed by JS or to determine how much these employees earned. Accordingly, for the fourth quarter 2009 through the fourth quarter of 2010, Perri's quarterly gross backpay was determined by averaging the quarterly comparator earnings for the first, second and third quarters of 2009.

(f) The calculations of the quarterly gross backpay due to Perri for each quarter of the backpay period from the first quarter of 2009 through the fourth quarter of 2010 are set forth in Exhibit 2.

(g) Perri did not have interim earnings that would reduce the amount of gross backpay owed to him.

(h) The total amount of backpay owed to Perri is the sum of his quarterly gross backpay as is set forth in Exhibit 3.

K. Whittaker and M. Whittaker

18. (a) K. Whittaker and M. Whittaker were employed by Respondent as carpenters. For the fourth quarter 2008, K. Whittaker's and M. Whittaker's gross backpay calculations are based on Respondent's payroll records showing their respective weekly earnings. K. Whittaker's and M. Whittaker's payroll records show their weekly earnings beginning with the paycheck dated July 3, 2008 and ending with the paycheck dated November 7, 2008. K. Whittaker's and M. Whittaker's average weekly earnings were calculated for all of the weeks they worked during this period. The calculations of their average weekly earnings are set forth in Exhibit 1. Their quarterly gross backpay for the fourth quarter of 2008 was calculated by multiplying their average weekly earnings by the number of weeks they would have worked during the fourth quarter after October 24, 2008.

(b) K. Whittaker would have worked six weeks (from October 24, 2008 through on or about December 5, 2008) at which time he would have been temporarily laid off.

(c) M. Whittaker would have worked six weeks (from October 24, 2008 through on or about December 5, 2008). After his unlawful layoff on October 24, 2008, M. Whittaker was recalled to work by Respondent. He worked for Respondent during the period from November 10, 2008 until on or about December 5, 2008. The amounts he earned during these four weeks were the same amounts he would have earned in the absence of his unlawful layoff on October 24, 2008. Thus, the only gross backpay claimed for M. Whittaker *for the fourth quarter of 2008* are the two weeks backpay he would have received from October 24, 2008 through November 7, 2008.

(d) During the first quarter of 2009, JS used carpentry subcontractor Absolute Carpentry, LLC (Absolute) to perform carpentry work. But for Respondent's discrimination

against them, JS would have employed K. Whittaker and M. Whittaker to perform this work. Thus, K. Whittaker's and M. Whittaker's gross backpay entitlement for the first quarter of 2009 is based on the number of hours of work that Absolute's employees performed. Absolute employed two individuals who worked 40 hours/per week for a period of four weeks. At the time of their layoffs, K. Whittaker's and M. Whittaker's hourly wage rates were, respectively, $22.50/hour and $15.00/hour. In order to determine their gross backpay for the first quarter of 2009, their hourly wage rates were multiplied by the 160 hours each of them would have worked for JS.

(e) In the absence of any other available evidence as to the amount of carpentry work that employees or subcontractors performed for JS or as to the hourly wage rates that JS paid any carpenter employees during all of the backpay quarters subsequent to the first quarter of 2009, quarterly gross backpay for K. Whittaker and M. Whittaker was calculated based on the projection that they would have worked the same number of hours each quarter as was worked by Absolute's employees during the first quarter of 2009, and that they would have continued to be paid the same hourly wage rate. Therefore, all quarterly gross backpay for the quarters subsequent to the first quarter of 2009 was calculated in the same manner as set forth above in paragraph 18(d).

(f) K. Whittaker has been unavailable for work since September 4, 2009. Therefore, backpay is not being sought for him from September 4, 2009 through the end of the fourth quarter 2010. For the third quarter of 2009, the calculation of backpay set forth in paragraph 18(d) was multiplied by 2/3 to reflect that K. Whittaker only would have worked two thirds of this quarter.

(g) M. Whittaker is not entitled to backpay from the first quarter of 2010 through the third quarter of 2010 because of his failure to engage in a reasonable search for interim employment for most of this period of time and because of offsets from certain interim employment that he had in the third quarter of 2010.

(h) M. Whittaker was unavailable for work during the fourth quarter of 2010. Therefore, backpay is not being sought for him for this quarter.

(i) For the quarters during which backpay is being claimed for K. Whittaker and M. Whittaker, they did not have any additional interim earnings that would reduce the amount of gross backpay owed to them.

(j) The total amount of backpay due to K. Whittaker and M. Whittaker is the sum of their quarterly gross backpay as is, respectively, set forth in Exhibits 4 and 5.

SUMMARY

19. Summarizing the facts and calculations specified herein, the obligation of Respondent and JS to make whole Perri, K. Whittaker and M. Whittaker under the Board's enforced Order (for the period covered by this Compliance Specification only, because the discriminatees' backpay periods are continuing) as described above in paragraphs 16 through 18

will be fulfilled by payment to them of the total amount of backpay set forth in Exhibits 3, 4 and 5, respectively, plus interest accruing on these amounts until the date of the payment.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, it must file an Answer to the Compliance Specification. The answer must be **received by this office on or before March 17, 2011, or postmarked on or before March 16, 2011**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the Answer with this office and serve a copy of the Answer on each of the other parties.

The Answer also may 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.nlrb.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. Unless notification of the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than two (2) hours after 12:00 noon (Eastern Time) on the due date for filing, 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. The Board's Rules and Regulations require that such Answer be signed and sworn to by Respondent or by a duly authorized agent with appropriate power of attorney affixed. See Section 102.56(a). If the Answer being filed electronically is a pdf document containing the required signature, no paper copies of the Answer need to be transmitted to the Regional Office. However, if the electronic version of the Answer to the Compliance Specification is not a pdf file containing the required signature, then the E-filing rules require that such Answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the Answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The Answer may not be filed by facsimile transmission.

As to all matters set forth in the Compliance Specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the Answer must state the basis for any disagreement with any allegations that are within Respondent's knowledge, and the Answer must set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no Answer is filed, or if the Answer is filed untimely the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Compliance Specification are true. If the Answer fails to deny allegations of the Compliance Specification in the manner required

under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the Compliance Specification are true and preclude Respondent from introducing any evidence controverting those allegations.

NOTICE OF HEARING

PLEASE TAKE NOTICE that at **11:00 a.m.** on **May 2, 2011**, and on consecutive days thereafter until concluded, a hearing will be conducted in a hearing room of the National Labor Relations Board, Region 4, 615 Chestnut Street, 7th Floor, Philadelphia, Pennsylvania before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Compliance Specification. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Signed at Philadelphia, Pennsylvania on this 24th day of February, 2011.

Dorothy L. Moore-Duncan

DOROTHY L. MOORE-DUNCAN
Regional Director, Fourth Region
National Labor Relations Board

Exhibit 1 (Calculations of D[illegible]iminatees' Average Weekly Earnings Based o[illegible]espondent's Payroll Records)

Joseph Perri's Average Weekly Earnings				
Check Date	Weekly Earnings	Average Weekly Earnings		
7/3/2008	$300.00			
7/11/2008	$435.00			
7/17/2008	$270.00			
7/25/2008	$517.50			
8/1/2008	$412.50			
8/8/2008	$585.00			
9/12/2008	$480.00			
9/18/2008	$480.00			
9/26/2008	$540.00			
10/3/2008	$562.50			
10/10/2008	$585.00			
10/17/2008	$570.00			
10/24/2008	$337.50			
		$467.31		
Kenneth Whittaker's Average Weekly Earnings				
Check Date	Weekly Earnings	Average Weekly Earnings		
7/3/2008	$675.00			
7/11/2008	$675.00			
7/17/2008	$506.25			
7/22/2008	$506.25			
8/1/2008	$618.75			
8/8/2008	$866.25			
8/15/2008	$540.00			
9/12/2008	$337.50			
9/18/2008	$697.50			
10/17/2008	$360.00			
10/24/2008	$888.75			
11/7/2008	$753.75			
		$618.75		
Matthew Whittaker's Average Weekly Earnings				
Check Date	Weekly Earnings	Average Weekly Earnings		
7/3/2008	$585.00			
7/11/2008	$120.00			
7/17/2008	$412.50			
7/22/2008	$412.50			
7/25/2008	$187.50			
8/1/2008	$397.50			
8/21/2008	$420.00			
8/22/2008	$277.50			
9/12/2008	$225.00			
9/18/2008	$465.00			
9/18/2008	$600.00			
9/26/2008	$330.00			
10/17/2008	$360.00			
10/24/2008	$472.50			
11/7/2008	$502.50			
		$384.50		

Exhibit 2 (Calculations of Quarterly Gross Backpay Amounts for Joseph F. . for First Quarter 2009 through Fourth Quarter 2010)

Quarter/Year	Check Dates	Payments Made to Dominguez	Payments Made to Vasquez	Average of Dominguez' and Vasquez' First Quarter 2009 Earnings
1st/2009				
	1/29/2009	$156.33	$146.80	
	2/13/2009	$407.29	$338.22	
	2/20/2009	$502.38	$382.78	
	2/27/2009	$448.89	$327.08	
	3/6/2009	$282.51	$215.65	
	3/13/2009	$371.64	$349.35	
	3/20/2009	$389.47	$249.08	
	3/27/2009	$282.51	$271.37	
Total		$2,841.02	$2,280.33	$2,560.68
2nd/2009				
	4/6/2009		$326.86	
	4/12/2009		$408.00	
	4/13/2009		$476.72	
	4/14/2009			
	5/11/2009			
	5/14/2009		$221.00	
	5/18/2009		$50.00	
	6/2/2009		$544.00	
	6/17/2009		$323.00	
	6/29/2009		$340.00	
Total			$2,689.58	
3rd/2009				
	7/3/2009		$527.00	
	7/9/2009		$300.00	
	7/10/2009		$250.00	
	7/14/2009		$493.00	
	7/26/2009		$525.00	
	8/1/2009		$350.00	
Total			$2,445.00	
Average Quarterly Earnings for the First, Second and Third Quarters of 2009				
$2,565.09				

Exhibit 3 (Backpay Due to Joseph Perri)

Quarter/Year	Weeks	Average Weekly Earnings	Gross Backpay
4th/2008	9.6	$467.31	$4,486.18
1st/2009			$2,560.68
2nd/2009			$2,689.58
3rd/2009			$2,445.00
4th/2009			$2,565.09
1st/2010			$2,565.09
2nd/2010			$2,565.09
3rd/2010			$2,565.09
4th/2010			$2,565.09
Total			$25,993.43

Exhibit 4 (Backpay Due to Kenneth Whittaker)

Quarter/Year	Weeks	Average Weekly Earnings	Gross Backpay
4th/2008	6	$618.75	$3,712.50
Quarter/Year	**Quarterly Hours = Hours of Work Performed by Absolute Carpentry, LLC in First Quarter 2009**	**Hourly Wage Rate**	**Gross Backpay**
1st/2009	160	$22.50	$3,600.00
2nd/2009	160	$22.50	$3,600.00
3rd/2009	107	$22.50	$2,400.00
Total			$13,312.50

Exhibit 5 (Backpay Due to Matthew Whittaker)

Quarter/Year	Weeks	Average Weekly Earnings	Gross Backpay
4th/2008	2	$384.50	$769.00
Quarter/Year	**Quarterly Hours = Hours of Work Performed by Absolute Carpentry, LLC in 1st Quarter 2009**	**Hourly Wage Rate**	**Gross Backpay**
1st/2009	160	$15.00	$2,400.00
2nd/2009	160	$15.00	$2,400.00
3rd/2009	160	$15.00	$2,400.00
4th/2009	160	$15.00	$2,400.00
Total			$10,369.00

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a JOHN SUCCI GENERAL CONTRACTORS a/k/a SUCCI, JOHN GENERAL CONTRACTORS and JS CONTRACTORS AND BUILDERS, INC. t/a SUCCI CONTRACTORS AND BUILDERS and METROPOLITAN REGIONAL COUNCIL OF CARPENTERS, SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE AND EASTERN SHORE OF MARYLAND	Case 4-CA-36427 Date of Mailing: February 24, 2011

AFFIDAVIT OF SERVICE OF:

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 by post-paid certified mail upon the following persons, addressed to them at the following addresses:

John Succi, President, John Succi Contracting, Inc., d/b/a John Succi General Contractors, 432 Schindler Drive, Yardley, PA 19067 (7006 0810 0005 5380 1958 RRR)

John Succi, JS Contractors and Builders, Inc. t/a Succi Contractors and Builders, 225 Lincoln Highway, Fairless Hills, PA 19030 (7006 0810 0005 5380 1965 RRR)

Charles A. Ercole, Esquire, Klehr, Harrison, Harvey, Branzburg, LLP, 1835 Market Street, Suite 1400, Philadelphia, PA 19103 (7006 0810 0005 5380 1972 RRR)

Edward Coryell, President, Metropolitan Regional Council of Carpenters Southeastern Pennsylvania, State of Delaware and Eastern Shore of Maryland, 1803 Spring Garden Street, Philadelphia, PA 19130-3916 (7006 0810 0005 5380 1989 RRR)

Stephen J. Holroyd, Esquire, Jennings Sigmond, PC, Penn Mutual Towers, 16th Floor, 510 Walnut Street, Philadelphia, PA 19106-3683 (7006 0810 0005 5380 1996 RRR)

Subscribed and sworn to before me this **24 February 2011**	Designated Agent /s/ Diane Alessandrini **NATIONAL LABOR RELATIONS BOARD**

EXHIBIT # 2a

7006 0810 0005 5380 1996

7006 0810 0005 5380 1989

7006 0810 0005 5380 1972

7006 0810 0005 5380 1965

7006 0810 0005 5380 1958

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EXHIBIT #2b

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Status: **Delivered**

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Detailed Results:

- **Delivered, February 25, 2011, 10:04 am, FAIRLESS HILLS, PA 19030**
- **Arrival at Unit, February 25, 2011, 4:47 am, LEVITTOWN, PA 19055**

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EXHIBIT # 3a

Track & Confirm

Search Results

Label/Receipt Number: **7006 0810 0005 5380 1958**
Service(s): **Certified Mail™**
Status: **Unclaimed**

Your item was returned to the sender on March 15, 2011 because it was not claimed by the addressee.

Track & Confirm

Enter Label/Receipt Number.

Go >

Detailed Results:

- **Unclaimed, March 15, 2011, 10:32 am, MORRISVILLE, PA**
- **Notice Left, February 25, 2011, 12:14 pm, MORRISVILLE, PA 19067**

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EXHIBIT #3b

KLEHR | HARRISON | HARVEY | BRANZBURG LLP

Charles A. Ercole
Direct Dial: (215) 569-4282
Email: CERCOLE@klehr.com

March 18, 2011

VIA FACSIMILE
(Telecopier No. 215-597-7658)
Dorothy L. Moore-Duncan
Regional Director, Fourth Region
NLRB, Region 4
615 Chestnut Street, 7th Floor
Philadelphia, PA 19106

Re: John Succi 4-CA-36427 and 10-1570

Dear Ms. Moore-Duncan:

This firm and I are withdrawing as counsel for John Succi, Inc., the Respondent in the above referenced matter. We were advised this week that Mr. Succi is changing counsel and request that the Board allow a brief continuance and extension of time to answer the complaint.

If you have any questions, or need additional information please do not hesitate to contact me.

Very truly yours,

Charles A. Ercole

CAE:slg
cc: Shane Thurman, Compliance Officer (via facsimile)
John Succi (via email/PDF)

1835 MARKET STREET | PHILADELPHIA PA 19103 | 215 568 6060 | f 215 568 6603 | klehr.com
PENNSYLVANIA | NEW JERSEY | DELAWARE

EXHIBIT #4

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a
JOHN SUCCI GENERAL CONTRACTORS a/k/a
SUCCI, JOHN GENERAL CONTRACTORS and
JS CONTRACTORS AND BUILDERS, INC. t/a
SUCCI CONTRACTORS AND BUILDERS

and

Case 4-CA-36427

METROPOLITAN REGIONAL COUNCIL OF CARPENTERS,
SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE
AND EASTERN SHORE OF MARYLAND

ORDER GRANTING REQUEST FOR
EXTENSION OF TIME FOR FILING ANSWER

Respondent, having requested an extension of time to file its Answer to the Compliance Specification and Notice of Hearing, and the request having been duly considered,

IT IS ORDERED, pursuant to Section 102.22 of the Board's Rules and Regulations, that the time for filing an Answer to the Compliance Specification in the above-captioned matter be, and it hereby is, extended to March 25, 2011.

Signed at Philadelphia, Pennsylvania this 21st day of March, 2011.

Dorothy L. Moore-Duncan
DOROTHY L. MOORE-DUNCAN
Regional Director, Fourth Region
National Labor Relations Board

EXHIBIT #5

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a JOHN SUCCI GENERAL CONTRACTORS a/k/a SUCCI, JOHN GENERAL CONTRACTORS and JS CONTRACTORS AND BUILDERS, INC. t/a SUCCI CONTRACTORS AND BUILDERS and METROPOLITAN REGIONAL COUNCIL OF CARPENTERS, SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE AND EASTERN SHORE OF MARYLAND	Case 4-CA-36427 Date of Mailing: March 21, 2011

AFFIDAVIT OF SERVICE OF: ORDER GRANTING EXTENSION OF TIME FOR FILING ANSWER

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 by post-paid first class mail upon the following persons, addressed to them at the following addresses:

John Succi, President, John Succi Contracting, Inc., d/b/a John Succi General Contractors, 432 Schindler Drive, Yardley, PA 19067

John Succi, JS Contractors and Builders, Inc. t/a Succi Contractors and Builders, 225 Lincoln Highway, Fairless Hills, PA 19030

Charles A. Ercole, Esquire, Klehr, Harrison, Harvey, Branzburg, LLP, 1835 Market Street, Suite 1400, Philadelphia, PA 19103

Edward Coryell, President, Metropolitan Regional Council of Carpenters Southeastern Pennsylvania, State of Delaware and Eastern Shore of Maryland, 1803 Spring Garden Street, Philadelphia, PA 19130-3916

Stephen J. Holroyd, Esquire, Jennings Sigmond, PC, Penn Mutual Towers, 16th Floor, 510 Walnut Street, Philadelphia, PA 19106-3683

Subscribed and sworn to before me this **21 March 2011**	Designated Agent /s/ Renai Dunmyer **NATIONAL LABOR RELATIONS BOARD**

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Charles A. Ercole
Direct Dial: (215) 569-4282
Email: CERCOLE@klehr.com

March 24, 2011

VIA FACSIMILE AND REGULAR MAIL
(Telecopier No. 215-597-7658)
Dorothy L. Moore-Duncan
Regional Director, Fourth Region
NLRB, Region 4
615 Chestnut Street, 7th Floor
Philadelphia, PA 19106

Re: John Succi 4-CA-36427 and 10-1570

Dear Ms. Moore-Duncan:

We are requesting that the Respondent be given a **SECOND** extension of time to answer the complaint in the above-referenced matter. We are asking for an additional week until April 3, 2011 for Mr. Succi and/or his new counsel to file a response.

This second request is necessitated by the fact that we have been advised that Mr. Succi has not formally engaged replacement counsel. Therefore, in an abundance of caution we ask for the courtesy of an additional week's time.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Charles A. Ercole

CAE:slg
cc: John Succi (via email/PDF)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a
JOHN SUCCI GENERAL CONTRACTORS a/k/a
SUCCI, JOHN GENERAL CONTRACTORS and
JS CONTRACTORS AND BUILDERS, INC. t/a
SUCCI CONTRACTORS AND BUILDERS

and

Case 4-CA-36427

METROPOLITAN REGIONAL COUNCIL OF CARPENTERS,
SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE
AND EASTERN SHORE OF MARYLAND

ORDER GRANTING REQUEST FOR
EXTENSION OF TIME FOR FILING ANSWER

Respondent, having requested an extension of time to file its Answer to the Compliance Specification and Notice of Hearing, and the request having been duly considered,

IT IS ORDERED, pursuant to Section 102.22 of the Board's Rules and Regulations, that the time for filing an Answer to the Compliance Specification in the above-captioned matter be, and it hereby is, extended to April 3, 2011.

Signed at Philadelphia, Pennsylvania this 24th day of March, 2011.

Dorothy L. Moore-Duncan
DOROTHY L. MOORE-DUNCAN
Regional Director, Fourth Region
National Labor Relations Board

EXHIBIT #8

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a JOHN SUCCI GENERAL CONTRACTORS a/k/a SUCCI, JOHN GENERAL CONTRACTORS and JS CONTRACTORS AND BUILDERS, INC. t/a SUCCI CONTRACTORS AND BUILDERS and METROPOLITAN REGIONAL COUNCIL OF CARPENTERS, SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE AND EASTERN SHORE OF MARYLAND	Case 4-CA-36427 Date of Mailing: March 24, 2011

AFFIDAVIT OF SERVICE OF: ORDER GRANTING EXTENSION OF TIME FOR FILING ANSWER

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 by post-paid first class mail upon the following persons, addressed to them at the following addresses:

John Succi, President, John Succi Contracting, Inc., d/b/a John Succi General Contractors, 432 Schindler Drive, Yardley, PA 19067

John Succi, JS Contractors and Builders, Inc. t/a Succi Contractors and Builders, 225 Lincoln Highway, Fairless Hills, PA 19030

Charles A. Ercole, Esquire, Klehr, Harrison, Harvey, Branzburg, LLP, 1835 Market Street, Suite 1400, Philadelphia, PA 19103

Edward Coryell, President, Metropolitan Regional Council of Carpenters Southeastern Pennsylvania, State of Delaware and Eastern Shore of Maryland, 1803 Spring Garden Street, Philadelphia, PA 19130-3916

Stephen J. Holroyd, Esquire, Jennings Sigmond, PC, Penn Mutual Towers, 16th Floor, 510 Walnut Street, Philadelphia, PA 19106-3683

Subscribed and sworn to before me this **24 March 2011**	Designated Agent /s/ Renai Dunmyer **NATIONAL LABOR RELATIONS BOARD**

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EXHIBIT # 9

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a JOHN SUCCI GENERAL CONTRACTORS a/k/a SUCCI, JOHN GENERAL CONTRACTORS

and

Case 4-CA-36427

METROPOLITAN REGIONAL COUNCIL OF CARPENTERS, SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE AND EASTERN SHORE OF MARYLAND

ORDER POSTPONING HEARING UNTIL FURTHER NOTICE

IT IS ORDERED that the hearing in the above-entitled matter scheduled to be held on May 4, 2011 be, and it hereby is, postponed until further notice.

Signed at Philadelphia, Pennsylvania this 29th day of March, 2011.

Dorothy L. Moore-Duncan
DOROTHY L. MOORE-DUNCAN
Regional Director, Fourth Region
National Labor Relations Board

EXHIBIT #10

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

JOHN SUCCI CONTRACTING, INC. d/b/a JOHN SUCCI GENERAL CONTRACTORS a/k/a SUCCI, JOHN GENERAL CONTRACTORS and JS CONTRACTORS AND BUILDERS, INC. t/a SUCCI CONTRACTORS AND BUILDERS and METROPOLITAN REGIONAL COUNCIL OF CARPENTERS, SOUTHEASTERN PENNSYLVANIA, STATE OF DELAWARE AND EASTERN SHORE OF MARYLAND	Case 4-CA-36427 Date of Mailing: March 29, 2011

AFFIDAVIT OF SERVICE OF: <u>ORDER POSTPONING HEARING UNTIL FURTHER NOTICE</u>

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 by post-paid first class mail upon the following persons, addressed to them at the following addresses:

John Succi, President, John Succi Contracting, Inc., d/b/a John Succi General Contractors, 432 Schindler Drive, Yardley, PA 19067

John Succi, JS Contractors and Builders, Inc. t/a Succi Contractors and Builders, 225 Lincoln Highway, Fairless Hills, PA 19030

Charles A. Ercole, Esquire, Klehr, Harrison, Harvey, Branzburg, LLP, 1835 Market Street, Suite 1400, Philadelphia, PA 19103

Edward Coryell, President, Metropolitan Regional Council of Carpenters Southeastern Pennsylvania, State of Delaware and Eastern Shore of Maryland, 1803 Spring Garden Street, Philadelphia, PA 19130

Stephen J. Holroyd, Esquire, Jennings Sigmond, PC, Penn Mutual Towers, 16th Floor, 510 Walnut Street, Philadelphia, PA 19106

Subscribed and sworn to before me this **29th day of March 2011**	Designated Agent /s/ Renai Dunmyer **NATIONAL LABOR RELATIONS BOARD**

United States Government

NATIONAL LABOR RELATIONS BOARD
Region Four
615 Chestnut Street - Seventh Floor
Philadelphia, PA 19106-4404

Telephone: (215) 597-7601
Fax: (215) 597-7658
Email: Region4@NLRB.GOV

April 7, 2011

John Succi, President
John Succi Contracting, Inc. d/b/a
John Succi General Contractors t/a
Succi Contractors and Builders
432 Schindler Drive,
Yardley, PA 19067

John Succi, President
John Succi Contracting, Inc. d/b/a
John Succi General Contractors t/a
Succi Contractors and Builders
225 Lincoln Highway
Fairless Hills, PA 19030

Re: John Succi Contracting, Inc. et al.
Case 4-CA-36427

Dear Mr. Succi:

This is to advise that your Answer to the Compliance Specification issued in this matter is overdue, notwithstanding that you were granted two extensions of time to file your Answer. I am enclosing an additional copy of the Compliance Specification and the portions of the NLRB's Rules concerning the filing of an Answer. If no Answer is filed by April 14, 2011, we intend to file a Motion for Default Judgment.

Please call me at your earliest opportunity if you have questions.

Very truly yours,

Daniel E. Halevy

DANIEL E. HALEVY
Regional Attorney
(215) 597-7615)

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EXHIBIT #12

COMPLIANCE PROCEEDINGS

Sec. 102.52 *Compliance with Board order; notification of compliance determination.* —After entry of a Board order directing remedial action, or the entry of a court judgment enforcing such order, the Regional Director shall seek compliance from all persons having obligations thereunder. The Regional Director shall make a compliance determination as appropriate and shall notify the parties of the compliance determination. A charging party adversely affected by a monetary, make-whole, reinstatement, or other compliance determination will be provided, on request, with a written statement of the basis for that determination.

Sec. 102.53 *Review by the General Counsel of compliance determination; appeal to the Board of the General Counsel's decision.*—(a) The charging party may appeal such determination to the General Counsel in Washington, D.C., within 14 days of the written statement of compliance determination provided as set forth in section 102.52. The appeal shall contain a complete statement setting forth the facts and reasons upon which it is based and shall identify with particularity the error claimed in the Regional Director's determination. The charging party shall serve a copy of the appeal on all other parties and on the Regional Director. The General Counsel may for good cause shown extend the time for filing an appeal.

(b) The General Counsel may affirm or modify the determination of the Regional Director, or may take such other action deemed appropriate, stating the grounds for the decision.

(c) Within 14 days after service of the General Counsel's decision, the charging party may file a request for review of that decision with the Board in Washington, D.C. The request for review shall contain a complete statement of the facts and reasons upon which it is based and shall identify with particularity the error claimed in the General Counsel's decision. A copy of the request for review shall be served on the General Counsel and on the Regional Director.

(d) The Board may affirm or modify the decision of the General Counsel, or make such other disposition of the matter as it deems appropriate. The denial of the request for review will constitute an affirmance of the decision of the General Counsel.

Sec. 102.54 *Initiation of formal compliance proceedings; issuance of compliance specification and notice of hearing.*—(a) If it appears that controversy exists with respect to compliance with an order of the Board which cannot be resolved without a formal proceeding, the Regional Director may issue and serve on all parties a compliance specification in the name of the Board. The specification shall contain or be accompanied by a notice of hearing before an administrative law judge at a place therein fixed and at a time not less than 21 days after the service of the specification.

(b) Whenever the Regional Director deems it necessary in order to effectuate the purposes and policies of the Act or to avoid unnecessary costs or delay, the Regional Director may issue a compliance specification, with or without a notice of hearing, based on an outstanding complaint.

(c) Whenever the Regional Director deems it necessary in order to effectuate the purposes and policies of the Act or to avoid unnecessary costs or delay, the Regional Director may consolidate with a complaint and notice of hearing issued pursuant to section 102.15 a compliance specification based on that complaint. After opening of the hearing, consolidation shall be subject to the approval of the Board or the administrative

law judge, as appropriate. Issuance of a compliance specification shall not be a prerequisite or bar to Board initiation of proceedings in any administrative or judicial forum which the Board or the Regional Director determines to be appropriate for obtaining compliance with a Board order.

Sec. 102.55 *Contents of compliance specification.*

(a) *Contents of specification with respect to allegations concerning the amount of backpay due.*—With respect to allegations concerning the amount of backpay due, the specification shall specifically and in detail show, for each employee, the backpay periods broken down by calendar quarters, the specific figures and basis of computation of gross backpay and interim earnings, the expenses for each quarter, the net backpay due, and any other pertinent information.

(b) *Contents of specification with respect to allegations other than the amount of backpay due.*—With respect to allegations other than the amount of backpay due, the specification shall contain a clear and concise description of the respects in which the respondent has failed to comply with a Board or court order, including the remedial acts claimed to be necessary for compliance by the respondent and, where known, the approximate dates, places, and names of the respondent's agents or other representatives described in the specification.

(c) *Amendments to specification.*—After the issuance of the notice of compliance hearing but prior to the opening of the hearing, the Regional Director may amend the specification. After the opening of the hearing, the specification may be amended upon leave of the administrative law judge or the Board, as the case may be, upon good cause shown.

Sec. 102.56 *Answer to compliance specification.*

(a) *Filing and service of answer; form.*—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.

(b) *Contents of answer to specification.*—The answer shall specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnishing the appropriate supporting figures.

(c) *Effect of failure to answer or to plead specifically and in detail to backpay allegations of specification.*—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. If the respondent files an answer to the specification but fails to deny any allegation of the specification in the manner required by paragraph (b) of this section, and the failure so to deny is not adequately explained, such allegation shall be deemed to be admitted to be true, and may be so found by the Board without the taking of evidence supporting such allegation, and the respondent shall be precluded from introducing any evidence controverting the allegation.

(d) *Extension of time for filing answer to specification.*—Upon the Regional Director's own motion or upon proper cause shown by any respondent, the Regional Director issuing the compliance specification and notice of hearing may by written order extend the time within which the answer to the specification shall be filed.

(e) *Amendment to answer.*—Following the amendment of the specification by the Regional Director, any respondent affected by the amendment may amend its answer thereto.

Sec. 102.57 *Extension of date of hearing.*—Upon the Regional Director's own motion or upon proper cause shown, the Regional Director issuing the compliance specification and notice of hearing may extend the date of the hearing.

Sec. 102.58 *Withdrawal.*—Any compliance specification and notice of hearing may be withdrawn before the hearing by the Regional Director upon his or her own motion.

Sec. 102.59 *Hearing; posthearing procedure.*—After the issuance of a compliance specification and notice of hearing, the procedures provided in sections 102.24 to 102.51 shall be followed insofar as applicable.