UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE

OAK HARBOR FREIGHT LINES, INC.
Respondent

and Case 19-CA-031797

TEAMSTERS UNION LOCALS 81, 174, 231, 252
324, 483, 589, 690, 760, 763, 839, AND 962, AND
TEAMSTERS LOCAL 174
Charging Party Unions

and

TEAMSTERS 206 EMPLOYERS TRUST[1]
Intervenor

Paul Thomas, Esq. and *Adam Morrison, Esq.,*
for the General Counsel.

Annie Holden, Esq. and *Thomas Leahy, Esq.,*
for the Charging Party Unions.

Jeffrey Chicoine, Esq. and *Matthew Tripp, Esq.,*
for the Intervenor.

Philip Miscimarra, Esq., Selena Smith, Esq., Melissa Hill, Esq.,
and *Abbey Glenn, Esq.,* for the Respondent.

SUPPLEMENTAL DECISION

STATEMENT OF THE CASE

BRIAN D. GEE, Administrative Law Judge. This compliance proceeding was litigated before me in Portland, Oregon, on October 9–11, 15, and 16, 2024, to decide the amount of money owed by Respondent Oak Harbor Freight Lines, Inc. to Teamsters 206 Employers Trust pursuant to the Board order in the underlying unfair labor practice decision, *Oak Harbor Freight*

[1] I have corrected the caption to reflect the correct, updated name of the trust: Teamsters 206 Employers Trust. (Jt. Exh. 72, Tr. 6.)

Lines, Inc., 361 NLRB 884 (2014). At trial, all parties[2] were afforded the right to call, examine, and cross-examine witnesses, to present any relevant documentary evidence, to argue their respective legal positions orally, and to file briefs and reply briefs.[3]

I. PROCEDURAL HISTORY

From the underlying ULP hearing in 2010 through the present, this controversy has been rigorously litigated before ALJs, the Board, the Courts of Appeal, and the U.S. Supreme Court. The extensive procedural history includes the following. On May 16, 2012, the Board issued its original decision and order in *Oak Harbor Freight Lines, Inc*., 358 NLRB 328 (2012), reversing the Administrative Law Judge to find, inter alia, that Respondent violated Section 8(a)(5) by unilaterally withholding contributions to the Trust. Respondent filed a petition for review with the Court of Appeals for the D.C. Circuit, and the Board filed a cross-application for enforcement. The Union's petition for review, which had been filed with the Court of Appeals for the Ninth Circuit, was transferred to the D.C. Circuit. During the pendency of these filings, the U.S. Supreme Court issued its decision in *NLRB v. Noel Canning*, 573 U.S. 513 (2014), finding invalid the appointments of two of the Board members who participated in the original decision. Based on this, the D.C. Circuit vacated the original decision and remanded the case to the Board.

On October 31, 2014, the Board issued its decision and order in *Oak Harbor Freight Lines, Inc*., 361 NLRB 884, finding that Respondent violated Section 8(a)(5) by withholding contributions to the Trust; unilaterally implementing new terms and conditions of employment, including its own company health care plan; and refusing to bargain in good faith with respect to the healthcare benefits of the bargaining unit employees.[4] To remedy the unlawful withholding of contributions, the Board ordered Respondent to:

> Make unit employees covered by the Oregon Warehouseman Trust whole by paying all delinquent contributions to the Oregon Warehouseman Trust, as well as any additional amounts due to the fund, restore the status quo ante in the expired collective-bargaining agreement with respect to that fund, and continue to make contributions to that fund until the Respondent negotiates in good faith to a new agreement or a lawful impasse.

361 NLRB at 885.

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[2] I refer to Oak Harbor Freight Lines as the "Respondent" or the "company," the various Teamsters Locals as the "Union," Teamsters 206 Employers Trust as the "Trust," and Counsel for the General Counsel as the "General Counsel."

[3] Pursuant to his unopposed motion, the General Counsel was permitted to present the testimony of one rebuttal witness, retired Teamsters business representative Kenneth Thompson, remotely. The witness was experiencing a health issue which warranted the remote testimony. (Tr. 468–471.)

[4] The bargaining unit consisted of "all truck drivers, helpers, deckmen, warehousemen, checkers, power-lift operators, hostlers, and other such employees as may be presently or hereafter represented by each Local Union [referenced in certain appendices], engaged in local pick-up, delivery and assembling of freight, within the jurisdiction of the Local Union and office clerical and shop employees employed by Respondent [with various exclusions]." 361 NLRB at 885.

On May 2, 2017, the D.C. Circuit Court issued its judgment enforcing the Board's order. On July 7, 2017, the court denied Respondent's motion for a rehearing en banc. On August 16, 2017, the court issued its mandate. On January 23, 2018, Respondent's application for a stay pending the disposition of its petition for a writ of certiorari was denied. 2018WL11601229. On February 20, 2018, the Supreme Court denied Respondent's petition for a writ of certiorari.[5]

Owing to disagreement over the amounts due under the Board order, the original compliance specification and notice of hearing issued on April 26, 2022. Over the next two-plus years, the compliance hearing was postponed four times, the Regional Director granted a motion to intervene by the Trust,[6] and an amended compliance specification issued on September 26, 2024 (the compliance specification) alleging the delinquent contributions owed to the Trust and the amounts of reimbursement owed for medical expenses[7] to make employees whole.

II. THE COMPLIANCE SPECIFICATION

Following settlement and withdrawal of the medical expense allegations, the remaining issues pertain to the determination of amounts owed by Respondent to the Trust to satisfy the enforced Board order that it pay, "all delinquent contributions to the Oregon Warehouseman Trust, as well as any additional amounts due to the fund." 361 NLRB at 885. The specification alleges that Respondent owes the Trust[8] $19,735,261.12 in total gross delinquent contributions during the make-whole period spanning February 2009 through December 2018 and $3,947,052.21 in liquidated damages, plus interest.

III. ANALYSIS

There are important differences between ULP and compliance litigation. In ULP litigation, the Board decides whether the respondent is liable for violating the Act and, if so, what the

[5] I have taken administrative notice of the court documents in the electronic case file for 19–CA–031797.

[6] Respondent opposes intervention by the Trust in the compliance proceeding and seeks revocation of that status. (R Br. pp. 79–83.) Consistent with my pretrial order, I will not rescind the Trust's intervenor status. First, the Board's Rules and Regulations do not empower me to reverse the Regional Director's decision made at the commencement of the compliance stage in 2022. Second, the Regional Director made the correct decision. Under similar circumstances, the Board has allowed trust funds to intervene when their financial or fiduciary interests could be impacted by the outcome of the proceeding. *Camay Drilling Co*., 239 NLRB 997, 998 (1978); *Operating Engineers Local 12 (Griffith Co.)*, 212 NLRB 343 (1974). Because this proceeding is to determine the amount of contributions owed to the Trust pursuant to the Board order, the Regional Director properly granted the Trust full intervenor status.

[7] At the start of the hearing, the parties jointly moved for approval of a partial compliance stipulation, which they agreed provided a full and complete remedy for Respondent's unlawful implementation of terms and conditions of employment, including its health care plan, for unit employees. I approved that joint motion. General Counsel thereafter moved to withdraw the following portions of the compliance specification: paragraph C on page 2 (not Paragraph B, as printed in the transcript); paragraph 3 on page 3; paragraphs 13–17(ff) on pages 6 through 11; the unnumbered second paragraph in the summary on page 11; and Appendices B and C. I granted that motion, which was unopposed, and remanded that portion of the case for compliance. (Joint Exh. 88, Tr. 10–18, 154–155.)

[8] The Trust is a multiemployer Taft-Harley Trust that provides health coverage and welfare benefits. Healthcare includes coverage for currently enrolled employees; retirees may also purchase health insurance for coverage after they leave the employment of a subscribing employer. Even if their employer withdraws from the Trust or goes out of business, retirees can still obtain retiree health coverage, if they pay an additional amount. Welfare benefits include short term disability insurance, accidental death and disability insurance, and life insurance. (Jt. Exhs. 12–21, Tr. 86–87, 96–97.)

remedy should be. By the time there is a compliance proceeding, however, the issues to be resolved center around what respondent must do to comply with the Board's order. As stated in *Dahl Fish Co*., 299 NLRB 413, 424 (1990), "the goal in the compliance stage is to apply what has already been decided, a process narrowly limited to determining what the ordered relief in the original Decision and Order means and how it may be implemented."

The Board's prior finding of a ULP "creates a rebuttable presumption" that backpay or other compensation is owed. *Thryv, Inc*., 372 NLRB No. 22, slip op. at 12 (2022), enf. denied in part on other grounds 102 F.4th 727 (5th Cir. 2024); *St. George Warehouse*, 351 NLRB 961, 963 (2007). Where there is a dispute over the amount of backpay owed or other compliance issues, uncertainties or ambiguities in the evidence may be resolved against the respondent whose unlawful actions created the dispute. See *International Brotherhood of Teamsters Local 25*, 366 NLRB No. 99, slip op. at 2 (2018); *Lucky Cab Co*., 366 NLRB No. 56, slip op. at 6 (2018), enfd. 818 F. Appx. 638 (9th Cir. 2020). At the compliance stage, the respondent may not relitigate matters already decided in the ULP proceeding. See, e.g., *Alaris Health at Rochelle Park*, 371 NLRB No. 66, slip op. at 4 (2022).

Compliance specifications strive to achieve a "restoration of the situation, as nearly as possible, to that which would have been obtained but for the illegal discrimination." *Phelps Dodge Corp. v. NLRB*, 313 US 177, 195 (1941). But that necessarily involves some approximation and such calculations are "often problematic and inexact." *Cobb Mechanical Contractors*, 333 NLRB 1168, 1168 (2001), enfd. in part 295 F.3d 1370 (D.C. Cir. 2002), Fittingly, the Board and the courts have applied a broad standard of reasonableness in approving different methods for calculating gross backpay. Any formula which approximates what the affected workers would have earned but for the ULP is acceptable, provided that it is neither unreasonable nor arbitrary. *Performance Friction Corp*., 335 NLRB 1117, 1117 (2001) (citing *La Favorita, Inc*., 313 NLRB 902, 903 (1994), enfd. mem 48 F.3d 1232 (10th Cir. 1995)). Remedies under the Act are remedial in nature. When backpay is owed, the Board's remedy is limited to restoring the situation to that which would have existed but for respondent's unlawful conduct. *Thryv, Inc*., supra.

In situations like this one, where an employer was found to have unlawfully discontinued contributions to a trust fund, the standard Board remedy is to make employees whole by paying back contributions. *Triple A Fire Protection*, 357 NLRB 693, 693 (2011) (citing *Stone Boat Yard v. NLRB*, 715 F.2d 441, 446 (9th Cir. 1983). Such a make whole order is not, however, unconditional. The affected employees must possess a nonspeculative future interest in the viability of that trust fund. *Roman Iron Works*, 292 NLRB 1292, 1293 fn. 15 (1989); *Ron Tirapelli Ford*, 304 NLRB 576 fn. 2 (1991). Where the trust fund's financial viability is necessary to satisfy the employees' future needs, the make-whole order is shown to be remedial in nature, not punitive. *Arandess Mgmt.*, 337 NLRB 245, 247–248 (2001); *Centra, Inc*., 314 NLRB 814, 819–820 (1994), enf. denied on other grounds 110 F.3d 63 (6th Cir. 1997). Additionally, the Board may order the employer to pay liquidated damages or interest on delinquent payments if the applicable CBA contains language, either directly or by reference, require them. See *Triple A Fire*

Protection, supra at 693; *Merryweather Optical Co.*, 240 NLRB 1213, 1217 fn. 7 (1979), and *J.R.R. Realty Co.*, 301 NLRB 473, 475 fn. 16 (1991).

<u>*Calculation of Gross Back Contributions and Additional Amounts Owed*</u>

The specification alleges the gross back contributions and other amounts owed in three parts: determination of the backpay period (pars. 1 and 2), calculation of gross back contributions (pars. 4–11), and inclusion of liquidated damages, plus interest (par. 12).

The General Counsel carried his burden to demonstrate, through the testimony of the Compliance Officer and documentary evidence, that the specification represents a reasonable attempt to approximate the amounts Respondent would have paid to the Trust but for its unlawful conduct. *Cobb Mechanical Contractors*, supra at 1168.

1. Determination of the Backpay Period

Specification paragraphs 1 and 2 define the beginning and end dates for the backpay period. The Region determined a start date of February 26, 2009, based on the Board's finding that Respondent discontinued contributions that day. 361 NLRB at 884. As for the end date, the Region used December 31, 2018, because Respondent returned the unit employees to the Trust the following day. (GC Exh. No. 1(ww), Tr. 58–59).

Respondent's Defense. As one of its alternative defenses, Respondent contends that, to the extent that any back contributions are owed, they should be limited to a two-year period between its ULP in February 2009 and the date of what it calls the "Beranbaum Agreement" in February 2011. This argument is analyzed in detail below in the context of Respondent's various affirmative defenses. Stated briefly here, I found the "Beranbaum Agreement" did not shorten Respondent's obligation to pay back contributions under the Board order.

Analysis. Starting the backpay period with the commission of the ULP and ending it when Respondent stopped its unlawful conduct was reasonable and not arbitrary. I therefore find that the backpay period began on February 26, 2009, and ended on December 31, 2018, as alleged in the specification.

2. Calculation of Gross Delinquent Contributions

Specification paragraphs 4 through 12, as well as Appendix A, allege that the gross back contributions owed by Respondent total $19,735,261.12. This sum was calculated based on the Region's formula, the number of eligible employees, and the applicable contribution rates.

The General Counsel called Compliance Officer Kristen Scott[9] to explain the Region's calculations. Scott testified that, based on an initial version created by a Field Examiner in Region

[9] Ms. Scott is the Compliance Officer in Region 31 in West Los Angeles, California. The undersigned ALJ was the Regional Attorney in Region 31 prior to May 2022 and was therefore her colleague for a period of time. At no time before or after this compliance proceeding, however, did I communicate with Ms. Scott about this case, other than in the hearing room with others present. (Tr. 56.)

19,[10] she completed the remainder of the specification and created Appendix A. She did so based on the guidance in *NLRB Casehandling Manual, Part 3—Compliance Proceedings*. Her process included analyzing the underlying Board decision to identify Respondent's obligations under the order, reviewing records supplied by the parties (e.g., the CBA, the trust agreement, and annual contribution rate sheets issued by the Trust to participant employers), determining an appropriate backpay formula, inputting the relevant data, and totaling it. (Tr. 57–58.)

Formula for Computing Gross Backpay. In calculating the back contributions[11] in Appendix A, the Region used the following formula: for each year in the backpay period, the number of eligible employees was multiplied by the contribution rate to arrive at a monthly amount. This formula was the same one used by the Trust. (Jt. Exhs. 54–64.) The monthly amount was multiplied by the number of applicable months to arrive at a yearly sum. The formula can be expressed as:

(No. of eligible employees) x (monthly contribution rate) x (number of months in that year during which backpay was owed) = annual total

Finally, the Region added each year's amount to arrive at a grand total for the entire backpay period. (Tr. 57–60, 70.) This formula is in line with Section 10528.5 of the case handling manual and no party opposed it.

Data Inputted Into the Formula. Having selected a formula for calculating annual contributions, the Region conducted a compliance investigation to determine what figures to input. This process was based on guidance in the case handling manual. The parties stipulated to the number of eligible unit employees in each month listed in Appendix A. (Tr. 20–22.) Back contributions were calculated monthly because CBA Section 17.02 provides for that: "the Employer shall pay *each month* into the following employee Benefit Trust Funds." (Emphasis added) (Jt. Exhs. 1, 72, Tr. 58–59).

In Appendix A, the Region utilized monthly contribution rates which generally increased annually during the backpay period and were higher than rates paid by Respondent under the CBA and under their post-CBA agreement. For example, the monthly contribution rate paid by Respondent in 2008 was $1025.66 per eligible employee, but the contribution rates used by the Region started at $1114.21 as of January 2009 and generally increased every year through the remainder of the backpay period. (Jt. Exhs. 55–64, Tr. 66–70.)

Based on provisions in the CBA or the trust agreement, the Region decided it was appropriate to use rates which increased. CBA Section 17.03 provided, in pertinent part:

> *Maintenance Of Benefits*: The Employer shall during the life of this Agreement pay any increase in rates needed to maintain the benefits. . . , if required by the Trustees of the Trust(s). . .

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[10] The initial draft of the specification was prepared by Field Examiner Travis Williams. Mr. Williams also previously worked at Region 31 and was a colleague of the undersigned. At no time before, during, or after this compliance proceeding did I communicate with him about this case.

[11] I will use the terms "backpay," "back contributions," and "contributions" interchangeably.

The pertinent part of CBA Section 17.04 provides:

> The Employer and the Local Unions shall be bound by the provisions of the "Agreement and Declaration" of the afore-referenced Trusts…and agree that the Trustees of that Trust shall act as Trustees on their behalf.

The pertinent part of Article V, Section 6, Paragraph (q) of the trust agreement provides:

> *Flat Rate Contributions*. [The Board of Trustees of the Trust shall have the power to] establish a monthly amount of money to be paid. . .by Employers who have obliged themselves to contribute to the Fund. . .

(Jt. Exhs. 1 and 72 (p. 14), Tr. 63–66, 78–82.) From these provisions, the Region determined that Respondent had agreed to pay any rate increases necessary to maintain benefits as determined by the Trust, and that the Trust had the authority to establish new rates.

The Region assumed that the same contribution rates which the Trust charged across-the-board to participating companies would have been applied to Respondent, as well. (Tr. 66.) Based on paragraph 2(b) of the underlying Board order, they determined that the Board had ordered Respondent to make contributions at rates beyond those in the CBA, as opposed to having rates frozen as of 2007. Paragraph 2(b) states, in pertinent part, that Respondent shall, "Make unit employees covered by the Oregon Warehousemen Trust whole by paying all delinquent contributions to the Oregon Warehousemen Trust, *as well as any additional amounts due to the fund*." 361 NLRB 884, 885 (emphasis added). The Region considered it reasonable to assume that medical costs would increase over time. Scott testified: "And assuming that the contributions had continued to be made, I think it's fair to assume that those costs to that plan would have increased, and thereby increasing the rates throughout the back pay period." (Tr. 81–82.) Finally, the Region noted that contribution rates, as determined by the Trust, rose for most years. For the rates in Column 4 of Appendix, Scott used the same contribution rates used by the Trust. Using this formula, the stipulated number of eligible employees, and the monthly contribution rate, the Region calculated annual sums and the grand total of delinquent contributions. (Jt. Exhs. 55–64, Tr. 67–70.)

Respondent's Defense. Respondent argues that the Region erred by increasing the monthly contribution rates beyond those it agreed to in the 2004–2007 CBA and separately in 2008. It relies on *PG Publishing Co., Inc. dba Pittsburg Post-Gazette*, 368 NLRB No. 41 (2019), where the parties' expired agreement limited increases in healthcare contributions to 5-percent annually during a set timeframe. The ALJ found that the employer unlawfully failed to pay increased contributions post-CBA, but the Board reversed and found that the employer maintained the status quo by keeping its contributions frozen at the CBA's final rate. Respondent argues that *PG Publishing* applies here because its obligation to pay increasing contribution rates was similarly limited to the life of the CBA. (R. Br. pp. 58–62.)

Analysis. The Region's approach to calculating the back contributions is consistent with Board precedent and Agency policies and procedures. For the formula, the Region used the same one used by the Trust before and after the ULP. For the data inputted into that formula, as well as the decision to use contribution rates which increased beyond those listed in the expired CBA, the Region was guided by language in the CBA and the trust agreement. Doing so was sound, as those documents defined the status quo ante. See *Galloway School Lines, Inc*., 321 NLRB 1422 (1996) ("we find that the appropriate remedy for these 8(a)(5) violations is to require the Respondent. . . to retroactively restore the terms and conditions of employment that existed under the predecessor's contract"), and *Arandess Mgmt. Co*., 337 NLRB 245, 259 (2001). I find no merit to Respondent's argument that the Region should have frozen the contribution rate as of the final year in the CBA. Such an approach would ignore the fact that the contribution rates charged to all participating companies increased over time, thereby freezing rates at an artificially low level. [12] More fundamentally, the Region's methodology was reasonable and therefore met the standard applicable to compliance proceedings. *Performance Friction*, 335 NLRB at 1117 (holding that any formula which approximates the backpay owed "is acceptable if not unreasonable or arbitrary in the circumstances.")

Based on the foregoing, I find that a reasonable approximation of the gross back contributions owed by Respondent to the Trust pursuant to the enforced Board order is the amount alleged in the specification: $19,735,261.12.

3. Liquidated Damages and Interest

Specification paragraph 12(a)-(d) alleges that Respondent must also pay $3,947,052.21 in liquidated damages, plus interest.

The Region determined that Respondent owed the Trust both interest and liquidated damages based on the delinquency procedures contained in Article III, Section 10 of the trust agreement:

> In the event the Employer become[s] delinquent in the payment of required Employer Contributions, the Employer shall pay to the Trust all of the following amounts in addition to the amounts of delinquent Employer Contributions due:
>
> (a) Interest on the amount of Employer Contributions due, at the rate of 12 percent per annum from the date on which the Employer Contributions became due and payable until the date the Employer Contributions are paid to the Trust Fund; and

[12] *PG Publishing* is distinguishable because the contract language there differed in key ways from the language in the CBA and the trust agreement here. In *PG Publishing*, the employer never agreed to pay the entire amount of the contribution rate, it only agreed to pay fixed increases of 5 percent annually; any shortfall had to be addressed in other ways. For example, in the 2nd year of the contract, when the rate rose to 5.9-percent, the employer paid only the 5-percent agreed to. To account for the shortfall, the trust fund was forced to increase employee deductibles. Slip op. at 2. In the instant case, however, Respondent agreed in the CBA to pay a set portion (90-percent) of the costs needed to maintain benefits. (Jt. Exh. 1, p. 33 (Bates OH_3036). The contractual language here differs in another crucial way, as well. In *PG Publishing*, the Board interpreted the language to find an "express contractual limitation of increases to two specific years." In contrast, I find no such limiting language here.

(b) Liquidated damages in an amount equal to 20 percent of the Employer Contributions due.

(Jt. Exh. 72, Tr. 71–73.) The Region determined that these additional amounts were mandated by paragraph 2(b) of the Board order, which provided that, in addition to delinquent contributions, Respondent's remedial obligation includes, "any additional amounts due to the fund." 361 NLRB 884, 885.

Respondent's Defense. Respondent argues that the specification's inclusion of liquidated damages and interest is improper. Regarding the $3,947,052.21 in liquidated damages, it asserts that amount is excessive, punitive in nature, exceeds the Board's remedial authority, and, to the extent they are based on ERISA Section 502(g), are improper because they cover a time period following expiration of the CBA. (R. Br. pp. 63–70.)

I find no merit to these arguments. It is well established that the Board may order liquidated damages and/or interest on delinquent payments if the applicable CBA contains language, either directly or by reference, providing for them. See *Triple A Fire Protection, Inc.,* 357 NLRB 693, 693 (2011); *Merryweather Optical Co.*, 240 NLRB 1213, 1217 fn. 7 (1979), and *J.R.R. Realty Co.*, 301 NLRB 473, 475 fn. 16 (1991). That is the situation here, as various sections of the trust agreement, which was included by reference into the parties' CBA, contain explicit guidance on both types of payments. As to liquidated damages, Article III, Section 10 provides that the parties acknowledge that the prompt payment of employer contributions is essential to the efficient operation of the Trust and that it would be "extremely difficult" and "impracticable" to calculate the specific damages caused by delinquent payments. It explains that late payments "require individual hand processing…and necessitate investigative, accounting, and legal expenditures by the Trust, all resulting in considerable expense to the Trust." Therefore, Section 10(b) sets liquidated damages at 20-percent, since the added costs to process late payments was "at least equal to" that. (Jt. Exh. 72, pp. 6–7.) Even under the two-factor test cited by Respondent in its brief,[13] 20-percent was not excessive because the parties agreed that it would be difficult to calculate specific damages and that rate was equal to or less than what it would have cost the Trust to process the delinquent payments. As for the 12-percent interest rate, that is also expressly provided for in the trust agreement, at Article III, Section 10(a). Both of these provisions show that neither the liquidated damages nor the interest is excessive. See *Emsing's Supermarket,* 307 NLRB 421, 423, and 428 (1992), and *Peerless Roofing Co., Ltd.*, 247 NLRB 500, 504 (1980), enfd. 641 F.2d 734 (9th Cir. 1981), where liquidated damages were found appropriate remedial relief where specified in the governing documents. See also *J.R.R. Realty Co.*, 301 NLRB 473, 483 (1991), enfd. mem. 955 F.2d 764 (D.C. Cir. 1992), cert. denied mem. 506 U.S. 829 (1992) ("The Board has regularly provided for the payment of liquidated damages to certain funds where the trust agreement provides for liquidated damages."). Nor would any Board order requiring interest and liquidated damages be punitive. These damages, which are based on the parties' own agreed-upon obligations, were established features of the status quo ante; therefore, their payment would be wholly remedial. It would be the mere

[13] From *Idaho Plumbers & Pipefitters Health & Welfare Fund v. United Mechanical Contractors, Inc.,* 875 F.2d 212, 212 (9th Cir. 1989).

enforcement of contractual provisions, not the imposition of a penalty devised by the Board. Finally, the General Counsel seeks the payment of liquidated damages and interest pursuant to a remedy that is standard under Board law, not an action under ERISA Section 502(g). Therefore, I find that defense inapplicable here, as well.

Based on the foregoing, I find that Respondent owes the Trust $19,735,261.12 in gross back contributions and $3,947,052.21 in liquidated damages, plus interest.

A. Respondent's Affirmative Defenses

Respondent raises various arguments that the amounts in the compliance specification should be reduced or eliminated entirely. [14] As explained below, I find no merit to any of them.

1. Respondent's Argument the Specification Is Unreasonable

Respondent asserts that the specification must fail because its "methodology [is] completely unreasonable." This is so because it does not account for Respondent's affirmative defenses, such as mitigating circumstances, the Union's disclaimer of interest, employees having only a speculative interest in the viability of the Trust, etc. (R. Br. pp. 19–20.) This defense misunderstands the structure and format of compliance proceedings, where the General Counsel must first establish the gross backpay calculations in the specification, then the respondent must establish the need for any reductions or offsets through their affirmative defenses. [15] I therefore dismiss this defense.

2. Respondent's Claim that the Specification Exceeds the Board's Remedial Authority

Respondent contends that full backpay would result in an improper windfall to the Trust because the employees lack a nonspeculative interest in the Trust's future viability; the Union disclaimed interest, and thus terminated Respondent's backpay obligation; and because offsets are required.

a. The Make Whole Remedy Is a "Windfall"

Respondent starts with the faulty premise that a make whole remedy here would constitute a "windfall" to the Trust. It cites two older Board decisions, *Service Roofing Co*., 200 NLRB 1015 (1972), and *Hassett Maintenance Corp*., 260 NLRB 1211 (1982), to support that proposition. Both decisions were, however, overruled in *Manhattan Eye, Ear, &Throat Hospital*, 300 NLRB

[14] I reject the General Counsel's argument that Respondent should be precluded from raising these affirmative defenses during the compliance stage, as opposed having raised them in the merits case. The Board ordered Respondent to pay "all delinquent contributions" to the Trust. 361 NLRB 884, 886 (2014). Respondent's affirmative defenses go to the question whether any or all of the back contributions are "delinquent" within the meaning of the Board order. It is therefore appropriate to consider them at the compliance stage.

[15] Respondent has the burden of proving these affirmative defenses. *Ryan Iron Works*, 345 NLRB 893, 896 (2005) (it is a "well-settled doctrine that in compliance proceedings the party offering an affirmative defense against the amount specified in a compliance specification has the burden of proving the mitigation of that amount"); *Centra, Inc*., 314 NLRB 814, 819–820 (1994) ("since General Counsel has proved a prima facie case of Respondent's obligation to pay into the funds the amounts alleged in the amended compliance specification, the burden of proof then shifts to Respondent to negate or limit its liability"); *Banknote Corp. of America*, 327 NLRB 625, 625 (1999).

201, 202 (1990), enf. denied 942 F.2d 151 (1991). For the past several decades, the Board has consistently held that, where the employees have a concrete economic interest in a trust fund's viability, a make whole order is remedial in nature because it merely requires the employer to do what it would have done but for its unlawful conduct: pay contributions to the trust fund, consistent with the parties' own agreement. See, e.g., *Andress Mgmt. Co*., 337 NLRB 245, 247 (2001), where the Board stated that it "has repeatedly ordered contributions to union funds on behalf of employees possessing a nonspeculative economic interest in those funds."

b. The Union's Disclaimer of Interest Terminated Respondent's Obligation to Pay the Trust

Respondent asserts that the Union's disclaimer of interest on October 11, 2019, terminated its obligation to pay back contributions to the Trust. Its rationale is that the employees no longer have a concrete interest in the Trust's future viability and so any Board order for contributions would amount to an improper windfall. Respondent cites to the Second Circuit's decision in *Manhattan Eye, Ear, & Throat Hospital*, 942 F.2d 151 (2d Cir. 1991), for the proposition that, "once there is a disclaimer of interest, employees have no interest in the future viability of the benefit funds." Absent that economic interest, back contributions would not result in the employees being made whole. (R. Br. pp. 27–33.)

The main weakness with this defense is that the credible testimonial and documentary evidence show just the contrary—that employees had a concrete economic interest in the Trust's viability at all times: in the past, present, and future. Looking backwards, employees had an obvious economic interest during the entire backpay period because the Union did not disclaim interest in the unit until October 11, 2019, a date occurring *after* the end of backpay period. During the entire backpay period, the employees were represented by the Union and would have continued to receive benefits from the Trust, but for Respondent's unlawful conduct. Additionally, from January 1, 2019, through the disclaimer, employees were in the Trust's plan and were thus invested in the Trust's financial well-being. Employees therefore had a concrete economic interest prior to the disclaimer.

Second, even after the Union's disclaimer, employees—notably retirees[16]—continue to have a concrete interest. Thomas Leedham, a long-time trustee of the Trust, credibly testified that some retirees continued to take advantage of retiree health benefits subsequent to the disclaimer.[17]

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[16] Detailed information about the benefits available to retirees and the costs for their participation can be found in the "Notes to Financial Statements" included in the Form 5500s filed by the Teamsters 206 Employers Plan (the Plan) for the period 2009-2021. (Jt. Exhs. 12-24.) For example, the Notes from Joint Exhibit 12 represent that the Plan "exists to provide health and other benefits to employees and retirees represented by the Union" and "Retirees who meet certain qualifications and who wish to participate in the Plan are required to contribute a portion of the cost of benefits at specified amounts, determined annually by the Plan's benefit consultant." (Bates Stamp OH_0102.) Note 10 discusses "Post Retirement Benefit Obligations." (Bates Stamp OH_0110.)

[17] Finding that employees and retirees have a concrete economic interest in the Trust's future viability is consistent with one of the holdings in *Manhattan Eye*. When analyzing the joint <u>pension</u> fund, as opposed to the joint <u>benefit</u> fund, the court held that the employees did have a concrete economic interest based on their expectation of drawing benefits from it—despite the union's disclaimer of interest. The court explained: "even though the nurses are no longer covered by the Joint Pension Fund they will continue to draw retirement benefits from that Fund….This is

He explained that most retirees exercise their option to purchase retiree health benefits, which provides for bridge and supplemental coverage. For example, an Oak Harbor retiree who is younger than 65 years old could obtain health insurance to cover them from the day they retire through the time they qualify for Medicare. Moreover, even after they turn 65, retirees can purchase supplemental health coverage from the Trust to supplement Medicare. This option is available even if their employer has withdrawn from the Trust or has gone out of business. (Tr. 86-97, 153.) The Form 5500s[18] filed by the Trust every year from 2009-2021 demonstrate that current and future retirees need the Trust to be fiscally sound so that it can pay for current and future benefits. For example, the 5500 filed in 2009 states in Note 10 to the Financial Statements that post retirement benefit obligations are "to be funded by contributions from the Plan's participating employers *and from existing Plan assets*." (Emphasis added.) The Trust's existing assets are thus needed to help pay for current and future retiree benefits. All of the Trust's Form 5500s contain identical representations. (Jt. Exhs. 12-24.)[19] Employees and retirees therefore have a present day concrete economic interest.

Third, employees will have an economic interest in the future based on the Trust's commitment to granting retroactive access to benefits. In 2023, the trustees unanimously passed a resolution declaring that, once Respondent pays the back contributions, the Trust will provide for an extended claims period during which employees can retroactively apply for various welfare benefits—life insurance, short-term disability, and AD&D—which they would have been eligible for during the backpay period. (J Exh. 74.) In 2024, the trustees passed a second resolution. This one declared that, once Respondent pays the back contributions, the Trust will provide retirees with subsidized access to the retiree health plan. Alternatively, retirees may apply for a Health Reimbursement Arrangement. (J Exh. 75.) Employees and retirees will therefore have a concrete economic interest in the future. [20]

Additionally, Respondent overstates the court's holding in *Manhattan Eye*. That decision does not stand for the blanket proposition that, where a union disclaims interest, employees automatically lack an interest in the trust fund's viability. Rather, the court found that the

concrete evidence the nurses retain an economic interest in the Joint Pension Fund's vitality, and cannot be made whole unless the solvency of the Joint Pension Fund is assured. The Board should therefore impose a remedy that restores that Fund's financial strength." 942 F.2d at 158.

[18] The U.S. Department of Labor's Employee Benefits Security Administration states that the DOL, Internal Revenue Service, and Pension Benefit Guaranty Corporation jointly developed Form 5500 to be part of ERISA's overall reporting and disclosure framework. It is intended to assure that employee benefit plans—such as the Trust—are operated and managed in accordance with certain standards. See Form 5500 Series | U.S. Department of Labor (last checked on December 15, 2025).

[19] Another illustration can be found in the breakdown of contribution costs. For 2012 and 2013, 9 to 10-percent of the employer contributions was attributed to costs related to welfare benefits and retiree healthcare.
While the facts pertaining to this example were less developed in the record, they do point to the basic idea that the Trust needs assets to pay for retiree benefits. (R Exhs. 1 and 2, Tr. 130-144.)

[20] Based on Leedham's testimony, the Trust does not know in detail how these resolutions will be implemented. The Trust cannot presently map out a specific plan because too many facts are still unknown, such as when the back contributions will be paid, the total dollar amount that will be received, and the cost of providing various benefits at some future date. (Tr. 106-129, 151-152.) This lack of specifics does not make the employees' interest speculative; rather, it just points to the reality that the details cannot be filled in only after the Trust knows the amount it can dedicate to these benefits. I do not hold these uncertainties against the Trust.

employees lacked an economic interest in the joint benefit fund based on two specific facts: the union's disclaimer of interest and because the benefit fund "no longer had any obligations to pay benefits to the nurses." Id. at 158. Given that employees and retirees currently receive and will receive benefits from the Trust, the court's decision does not apply to the instant case.

Based on the foregoing, I find that the Union's disclaimer of interest did not relieve Respondent of its obligation under the Board order to pay back contributions.

c. *The Demand for Offsets*

As an alternative position, Respondent argues that, if it must pay some back contributions, that amount should be subject to offsets. Citing the D.C. Circuit's decision in *Grondorf, Field, Black & Co.*, 107 F.3d 882 (DC Cir. 1997),[21] and the ALJ decision following the Board's remand, *Exhibitree*, 1999WL 33454748 (1999), Respondent asserts that back contributions should be offset by either the amounts that the Trust would have spent for benefit claims and related administrative costs or the amount the Trust would have paid if it had provided healthcare coverage to the employees during the backpay period. (R. Br. pp. 33–46.)

Board precedent does not allow for offsets to be taken from back contributions to account for a respondent's costs incurred in providing their own, unilaterally implemented healthcare coverage. The Board has considered this issue many times over the years, and in exercising its broad remedial discretion concluded that it would be inappropriate to award offsets on that basis. See, e.g., *Schwickert's of Rochester*, 349 NLRB 687, 690 (2007), *Harding Glass Co*., 337 NLRB 1116, 1118 (2002), *Arandess Mgmt.*, 337 NLRB 245, 246–247 (2001), *Banknote Corp. of America*, 327 NLRB 625 (1996), and *Stone Boat Yard v. NLRB*, 715 F.2d 441, 446 (9th Cir. 1983). In *Stone Boat Yard*, the Ninth Circuit stated: "an employer cannot complain of the extra cost of improperly created, substitute fringe benefits. The company is merely required to pay what it unlawfully withheld. As in *Carilli*, it was the company that unlawfully chose to incur the additional expense of a private insurance program." Id. at 629 (citing *NLRB v. Carilli*, 648 F.2d 1206 (9th Cir. 1983), cert. denied 466 U.S. 937 (1984) (citations omitted). The court's rationale and conclusion represent the current state of Board law.[22]

As for subtracting the costs which the Trust would have incurred if it had provided the healthcare coverage, Respondent cited no binding Board precedent. Instead, it relies on the ALJ decision in *Exhibitree.* Following remand, the ALJ recommended that the Board offset gross back contributions. After determining that 70.1-percent of employer contributions would have gone to pay for employee healthcare claims and 29.9-percent would have been dedicated to supplementing fund reserves, he recommended that the Board order the employer to pay just the amount needed to fund reserves. In short, the ALJ recommended that the employer be allowed to offset 70.1-percent of the back contributions. The ALJ decision was not reviewed by the Board.

Board precedent is contrary to the ALJ's decision in *Exhibitree*. Board decisions have not allowed for offsets to be taken based on the costs a trust fund would have incurred but for an

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[21] Affirming in part and remanding in part the Board's decision at 318 NLRB 995 (1995).
[22] In *Centra, Inc.*, 314 NLRB 814, 818 (1994), the Board affirmed the decision of the ALJ, who wrote: "The Board rule, as far and I am concerned, is reflected in the court of appeals' *Stone Boat Yard* decision, cited repeatedly by the Board in *Manhattan Eye, Ear* and other cases."

employer's ULP. *Schwickert's of Rochester,* supra, illustrates this. The employer there filed exceptions arguing that, to the extent it owed some contributions to the trust, it should be relieved of the duty to pay current claims. The Board denied the employer's request, concluding, inter alia, that the respondents "made no showing in this case that such reductions could be accomplished while still adequately protecting the employees' future interests." 349 NLRB 687, 687 fn. 2 (2007). The decision in *Schwickert's* represents the viewpoint of the Board, not the ALJ decision in *Exhibitree*.[23] Moreover, in the instant case, Respondent did not demonstrate that, if any of its proposed offsets for this reason were granted, the unit employees' concrete economic interests in the Trust's future viability would still be protected.

d. The Asserted "Beranbaum Agreement"

Assuming that it owes any back contributions, Respondent contends that the back pay period ended in February 2011 because of an agreement it reached with the Union that terminated its liability to the Trust thereafter. This would shorten the 9-year backpay period to just two years, February 2009 to February 2011.

Facts. The credited facts are as follows.[24] On January 5, 2011, one month before the parties' exchange of letters, ALJ McCarrick issued his decision in the underlying merits case. He found Respondent's withholding of contributions to the Trust to be lawful but the placement of the returning strikers into the company plan and failure to bargain on that issue to be unlawful.[25] He therefore recommended that Respondent be ordered to cease giving effect to the unilaterally implemented company plan and to bargain in good faith. Given his dismissal on the withholding of contributions, no back contributions were warranted. The case then moved to the Board based on exceptions filed by the Acting General Counsel, the Union, and Respondent. 358 NLRB 328 (2012).

On February 18, 2011, Respondent's lead negotiator John Payne sent a letter to Michael Beranbaum, the Union's lead negotiator. Respondent's filing of exceptions notwithstanding, Payne pointed out that compliance with the recommended order would result in the employees losing their health insurance. He proposed an "interim measure" whereby the employees would continue to be covered by the company plan during the pendency of the parties' negotiations for a successor CBA. Payne stated that the interim measure would not be binding on the parties in their negotiations and would not waive Respondent's position in litigation. He assured Beranbaum that the company would not treat any agreement as a waiver of the Union's right to bargain about the Trust benefits in any successor CBA. (Jt. Exh. 2.)

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[23] ALJ decisions without Board review have no precedential value. *Southwest Regional Council of Carpenters*, 356 NLRB 613, 635 (2011).

[24] Four witnesses testified on this issue. The General Counsel called Union Chief Negotiator Michael Beranbaum and retired Teamsters Business Representative Kenneth Thompson, while Respondent called Attorney John Payne and Labor Relations Director Robert Braun. Each side gave differing testimony about the existence of the "Beranbaum Agreement." I credit the Union's witnesses, and discredit Oak Harbor's witnesses, on this issue because the documentary evidence and the probabilities inherent in the circumstances support their version of events.

[25] The Board subsequently reversed this dismissal. (361 NLRB at 884, Tr. 423–424.)

Beranbaum knew that it would be crucial to declare unequivocally that the Union was not agreeing to certain parts of the company's proposal and was not conceding that the unit employees had been unlawfully removed from the Trust. He credibly testified, "And so we were going to let them know right away that—that we weren't in agreement that they could get out of anything from—from this. So we—we're not in agreement with their proposal as presented to us." (Tr. 684–687.) Even though the Union had lost before the ALJ on the withholding of contributions allegation, Berenbaum knew that the ALJ decision was just the first of many turns in the road of what promised to be a lengthy litigation process and so the Union had to protect the possibility of that remedy. "The Union would win some, the Employer would lose some, and then at a different level, other pieces would go to the other way. And the history was that both sides were continually appealing anything that they lost. So I knew that this was not the end of any process, that we were going to go forward," he testified. (Tr. 689.) He therefore drafted a reply expressly stating that the Union was not ceding any potential remedies in the Board litigation—and, significantly, could not waive any remedies sought by the General Counsel. "So I had to make it clear that if we were going to go down this road, that we reserved all of our rights, both as a Union to all. . .the issues we had already been claiming and arguments we were making, as well as that I had no authority to make any agreement for the General Counsel," he said, "I can only reach agreement based on what the Unions are willing to do. The case at this point. . .was the General Counsel's. The remedy being sought was in relation to the General Counsel. That was up to the General Counsel to determine whether they were willing to agree for anything less than a make whole remedy." (Tr. 689–690.)

On February 22, 2011, Beranbaum replied, writing that Respondent's proposal to keep the employees in the company health plan was acceptable to the Union—with two key conditions. First, the Union was accepting coverage by the company plan only during the pendency of bargaining and Board litigation. Second, that the Union's acceptance did not waive its position at litigation—and could not waive the remedies sought by the General Counsel:

> The Union's agreement to the proposal is not and will not be construed to be a waiver of any position it or the General Counsel has taken with respect to the Company's actions at issue in the Unfair Labor Practice proceeding. In particular, without limitation, the Union's interim agreement to maintain employees in the Company plan pending bargaining does not waive its position that the Company impermissibly removed employees from the Teamsters plan…

(Jt. Exh. 3, Tr. 688, 691.) While not expressly stated in the letter, the litigation positions being taken by the Union and the General Counsel were to convince the Board to reverse the ALJ and find that Respondent unlawfully withheld contributions to the Trust.[26]

Respondent did not respond to Berenbaum's letter; rather, the parties continued to meet and engage in bargaining for a successor CBA. Payne never agreed to or rejected the conditions in the Union's reply. Based on the parties' prior bargaining history, Beranbaum interpreted this as

[26] I have taken administrative notice of the electronic case file. The parties' exceptions and cross-exceptions were filed with the Board in March 2011.

acceptance by Respondent. (Tr. 430, 691–692.) Whatever the parties' subjective view, Respondent continued to cover the employees under the company health plan.

Respondent's Defense. Respondent argues that the February 2011 exchange of letters created the "Beranbaum agreement," pursuant to which the parties agreed that employees would continue to receive coverage through the company plan. This agreement *prospectively* satisfied its obligation under the 2014 Board order for it to return employees to the Trust and make back contributions.[27] Respondent cites to the D.C. Circuit's decision in *NLRB v. Cauthorne*, 691 F.2d 1023 (1982), for the proposition that post-ULP good-faith bargaining between an employer and a union, resulting in either an agreement or impasse, can terminate the employer's liability for its unlawful unilateral change. (R. Br. pp. 7–11, 46–56.)

Analysis. There is no merit to this defense. First, Respondent's theory of a "Beranbaum Agreement" grossly misstates what transpired in February 2011. The parties did not engage in meaningful overall contract bargaining; rather, their lead negotiators just exchanged letters about what to do, as an "interim measure, about employee healthcare coverage. There was no grand "Beranbaum Agreement" as Respondent seeks to establish. Payne made a proposal to keep the employees in the company plan on a temporary basis, along with various conditions; while Beranbaum agreed to keep the employees in the company plan on a temporary basis, along with different conditions. There was no meeting of the minds. Rather, Respondent simply maintained coverage under the company plan while the parties continued their contract talks. Second, Respondent seeks to misapply *NLRB v. Cauthorne* to this case. In *Cauthorne*, the D.C. Circuit remanded the case to the Board to determine whether the parties' post-ULP negotiations resulted in impasse. It made sense for the court to want to know about impasse since the employer's obligation to bargain would have been satisfied by either bargaining in good faith to a contract (which was known to not have happened) or impasse. In short, the facts to be determined on remand could show that the employer satisfied its obligations under the Board order. Such was not the case here, however. The future Board order would require Respondent to do far more than exchange two letters about an "interim measure." The Board order would require Respondent to cease giving effect to the company plan, restore the status quo ante in the 2004–2007 CBA, make the Trust whole, and negotiate in good faith to either agreement or lawful impasse. In short, the February 2011 exchange of letters would not have satisfied Respondent's obligations under the future Board order. The additional facts that the ultimate Board decision required the reversal of the ALJ's decision, would not issue for over three years (October 2014), and would not be final for seven years (February 2018) further highlight the tenuous nature of Respondent's theory. Moreover, it is evident from the testimony of Beranbaum, whom I credit, that the Union was merely bargaining over a temporary, stopgap measure, not the overall "new agreement" provided for in the Board order.

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[27] In February 2011, the parties could not have known that the Board would reverse the ALJ, find that Respondent unlawfully withheld contributions, order Respondent to restore coverage by the Trust, and pay back contributions. That decision and order from the Board would not issue until October 2014 and would not become final until February 2018, when the Supreme Court denied certiorari.

Nor is there any credible evidence to show a reaffirmation of the purported agreement in June 2018. On February 20, 2018, the Supreme Court denied Respondent's petition for a writ of certiorari, bringing the underlying merits case to a close. By letter dated June 11, 2018, Val Holstrom of Joint Council of Teamsters No. 28 told Braun that Respondent's emails about implementing the court decision in the merits case finally reached him (after being sent to somebody else), that he would be conferring with the Union's attorneys as to how to best proceed, that the Union was requesting for the time being that the employees should continue to be in the company health plan, and that the Union was not waiving any of its rights under the Board order. (Jt. Exh. 4.) Later in the Fall, after the parties agreed that Respondent would return employees to the Trust effective January 1, 2019, to avoid complications from a mid-year switching of health plans, Thompson repeated that this action, "is not and will not be construed as a waiver of any position and/or remedy it or the General Counsel has taken with respect to the Company's action at issue in the unfair labor practice proceedings (as well as in any remedy proceedings)." (Jt. Exh. 67.) There was, therefore, no such reaffirmation of the 2011 "agreement"; rather, Holstrom merely asked Respondent to continue to cover employees in the company plan while he conferred with counsel about the steps going forward.

Based on the foregoing, I find that the backpay period was not terminated as of February 2011.

e. Respondent's Arguments Based on the Seventh Amendment

Respondent contends, based on *SEC v. Jarkesy*, 144 S.Ct. 2117 (2024), that it would violate the Seventh Amendment for the Board to order the back contributions. In support of its position, Respondent advanced three arguments. First, the remedy sought is not truly compensatory, owing to the "windfall" that would result if ordered; rather, the remedy is directed towards obtaining retribution or deterrence, not making employees whole. Second, the monetary remedy arises from Respondent's obligations under the CBA, and so the back contributions are a claim for money due and owing under a contract. They are therefore legal in nature. Third, this matter does not fall within the "public rights exception." Based on this, Respondent argues that the Board cannot order the remedy sought in the specification, and that it can only be awarded pursuant to a jury trial conducted by an Article III court. (R. Br. pp. 83–90.)

There is no merit to this defense. It is long established precedent that Board proceedings do not implicate the Seventh Amendment. *NLRB v. Jones & Laughlin Steel Corp*., 301 US 1, 48-49 (1937); *Commonwealth Flats Development Corp. d/b/a Seaport Hotel Boston*, 373 NLRB No. 142, slip op. at 1, fn. 1 (2024)(citing Jones & Laughlin); *Troutbrook Co*., 373 NLRB No. 125, slip op. at 2 (2024); and *HHS Aviation, LLC*, Case 12–CA–326227, fn. 2 (2024) (unpublished order) ("Respondent's argument that it is entitled to a jury trial under the Supreme Court's recent decision in *S.E.C. v. Jarkesy*, 603 U.S. __, 144 S.Ct. 2117 (2024), is unpersuasive. The Supreme Court has long held that unfair labor practice cases do not arise under common law and that the Board's processes do not violate the Seventh Amendment").

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[28]

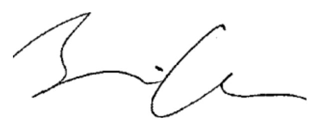
ORDER

Respondent Oak Harbor Freight Lines, Inc., Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, its officers, agents, successors, and assigns, shall, pursuant to its obligation to make employees whole as ordered by the National Labor Relations Board in 361 NLRB 884 (2014), make the following payments to the Teamsters 206 Employers Trust:

Delinquent Trust Fund Contributions: $19,735,261.12

Liquidated Damages: $3,947,052.21, plus the payment of interest as described in the compliance specification.

Dated, Washington, D.C. December 19, 2025



Brian D. Gee
Administrative Law Judge

[28] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.