

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

HIGH ALTITUDE DENTAL LLC

and

Case 28-CA-242115

JACLYN SHLAPACK

DECISION AND ORDER

Statement of the Case

On February 2, 2021, High Altitude Dental LLC (the Respondent); Jaclyn Shlapack; and the Acting General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

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

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

The Respondent's business

(a) At all material times, the Respondent has been a New Mexico limited liability company with an office and place of business located in Albuquerque, New Mexico, and has been engaged in the business of providing dental services.

(b) In conducting its operations during the 12-month period ending May 23, 2019, the Respondent has purchased and received goods valued in excess of \$50,000 directly from points outside the State of New Mexico.

(c) In conducting its operations during the 12-month period ending May 23, 2019, the Respondent derived gross revenues in excess of \$250,000.

(d) At all material times, the Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act and has been a health care institution within the meaning of Section 2(14) of the Act.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, High Altitude Dental LLC, Albuquerque, New Mexico, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening its employees with discharge or other unspecified reprisals if they complain about their hours, lack of hours, and/or work schedules.

(b) Promulgating and maintaining overly broad and discriminatory directives to its employees that prohibit them from complaining about their hours or lack of hours and/or their work schedules.

(c) Telling its employees that the Respondent will take care of work schedules at it sees fit.

(d) Telling its employees that it would be futile for them to engage in protected concerted activities.

(e) Reducing its employees' hours because they engaged in protected concerted activities by discussing employee wages, hours, and scheduling.

(f) Changing its employees' work schedules because they engaged in protected concerted activities by discussing employee wages, hours, and scheduling.

(g) Disciplining its employees because they engaged in protected concerted activities by discussing employee wages, hours, and scheduling.

(h) Discharging its employees because they engaged in protected concerted activities by discussing employee wages, hours, and scheduling.

(i) Reducing its employees' hours because they filed a Board charge or cooperated in a Board investigation.

(j) Changing its employees' work schedules because they filed a Board charge or cooperated in a Board investigation.

(k) Disciplining its employees because they filed a Board charge or cooperated in a Board investigation.

(l) Discharging its employees because they filed a Board charge or cooperated in a Board investigation.

(m) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under Section 7 of the Act.

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

(a) Within 14 days from the date of the Board's Order, rescind, in writing, all directives to employees that prohibit them from complaining about their hours or lack of hours and/or their work schedules.

(b) Within 14 days from the date of the Board's Order, repudiate all statements to employees that exercising their Section 7 rights to engage in collective activity is futile.

(c) Within 14 days from the date of the Board's Order, remove all records of the written warning issued to Jaclyn Shlapack on May 14, 2019 from her personnel file, and notify her in writing that it has done so and that the written warning will not be used against her in any way.

(d) Within 14 days from the date of the Board's Order, rescind the discharge issued to Jaclyn Shlapack on June 9, 2019, remove all records of the discharge from Shlapack's personnel file, and notify Shlapack in writing that it has done so and that the discharge will not be used against her in any way.

(e) Beginning on the date of this agreement, the Respondent will make whole Jaclyn Shlapack, who has waived her right to reinstatement, by payment to her in the amounts specified below on the dates specified below. The Respondent will make appropriate withholdings for Shlapack. No withholdings should be made from the interest portion of the backpay. If the Respondent chooses to pay by direct deposit, the Respondent will submit all ACH direct deposit check information, including but not limited to, the gross, net, and all itemized deduction information, to Supervisory Compliance Officer Janet C. Little at Janet.Little@nlrb.gov and Compliance Assistant Patricia Ramirez at Patricia.Ramirez@nlrb.gov at least two business days prior to each scheduled direct deposit payment.

Date this formal settlement stipulation is executed	\$3,498 backpay	\$135 interest	\$461 excess tax	\$355 front pay	\$4,449 total
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14 days after date this formal settlement stipulation is executed	\$3,498 backpay	\$135 interest	\$461 excess tax	\$355 front pay	\$4,449 total
28 days after date this formal settlement stipulation is executed	\$3,498 backpay	\$135 interest	\$461 excess tax	\$355 front pay	\$4,449 total
				Total	\$13,347

(f) Within 14 days of service by the Region, post at the Respondent's facility copies of the attached notice marked "Appendix A" in English, and any other languages deemed appropriate by the Regional Director. Copies of the notices, on forms provided by Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the Respondent shall distribute notices electronically, by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 8, 2019.

(g) This stipulation is subject to the approval of the Board and, immediately upon the approval by the Board, it will be retroactively effective to the date of execution of the stipulation.

(h) Within 21 days after service by the Region, file with the Regional Director for Region 28 of the Board a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., September 1, 2022.

Lauren McFerran, Chairman

Marvin E. Kaplan, Member

Gwynne A. Wilcox, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

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

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose a representative to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT tell you that exercising the above rights is futile.

WE WILL NOT stop you from discussing employee wages and hours and **WE WILL** rescind our directive on that subject.

WE WILL NOT threaten you with discipline, discharge, or other unspecified reprisals if you engage in activity with other employees regarding your wages, hours, and working conditions.

YOU HAVE THE RIGHT to discuss wages, hours and working conditions with other employees and **WE WILL NOT** do anything to interfere with your exercise of that right.

YOU HAVE THE RIGHT to freely bring issues and complaints relating to wages and hours to us on behalf of yourself and other employees and **WE WILL NOT** do anything to interfere with your exercise of that right.

WE WILL NOT reduce your hours because you exercise your right to discuss wages, hours and working conditions with other employees.

WE WILL NOT change your schedule because you exercise your right to discuss wages, hours and working conditions with other employees.

WE WILL NOT discharge you because you exercise your right to discuss wages, hours and working conditions with other employees.

WE WILL NOT fire you because you exercise your right to bring issues and complaints to us on behalf of yourself and other employees.

WE WILL NOT discipline you because you have given an affidavit or participated in a Board proceeding.

WE WILL NOT fire you because you have given an affidavit or testified in a Board proceeding.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL pay Jaclyn Shlapack, who has waived employment with us, for the wages and other benefits she lost because we discharged her.

WE WILL remove from our files all references to the discipline and discharge of Jaclyn Shlapack and **WE WILL** notify her in writing that this has been done and that the discipline and discharge will not be used against her in any way.

HIGH ALTITUDE DENTAL LLC

The Board's decision can be found at www.nlr.gov/case/28-CA-242115 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

