

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -- )  
 )  
Hempt Bros., Inc. ) ASBCA No. 59923  
 )  
Under Purchase Order No. AMMO RD )

APPEARANCE FOR THE APPELLANT: Michael L. Bangs, Esq.  
Bangs Law Office, LLC  
Camp Hill, PA

APPEARANCES FOR THE GOVERNMENT: Raymond M. Saunders, Esq.  
Army Chief Trial Attorney  
MAJ Lawrence P. Gilbert, JA  
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL

On 6 April 2015, appellant, Hempt Bros., Inc. (Hempt), filed this appeal from a contracting officer's 4 February 2015 final decision. On 11 May 2015, the Board ordered that the parties address whether the Board possessed jurisdiction to entertain the appeal. In response, the government argued that no contract existed with appellant and, at best, appellant may be a subcontractor for providing services. Thus, no privity exists between Hempt and the government. Also, in response on 10 June 2015, Hempt, through counsel, stated:

Hempt had no intention of presenting a formal "claim" under this administrative process to the contracting officer and its letter of January 12, 2015 [seeking payment of \$13,213.81] was never intended to be as such....

....

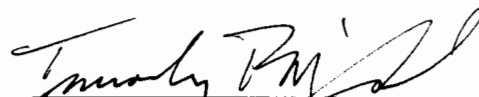
Hempt does not believe that the matters at issue...should be subject to the Armed Services Board of Contract Appeals. Hempt believes that [the government] erroneously invoked this appeal process and it should not continue.

Hempt believes that the proper decision in this matter is that the Armed Services Board of Contract

Appeals lacks jurisdiction to hear this matter in that it is not an appeal of the contracting officer's decision at all.

On 27 August 2015, the Board ordered that by 4 September 2015, the parties show cause why, in view of Hempt's 10 June 2015 statements, the appeal should not be considered withdrawn, and why, therefore, the appeal should not be dismissed without prejudice. On 1 September 2015, the government responded that the appeal should be withdrawn, and that it did not oppose dismissal with or without prejudice. Appellant has not responded to the order to show cause. In view of Hempt's 10 June 2015 statements, we find that the appeal has been withdrawn. Accordingly, the appeal is dismissed from the Board's docket, without prejudice.

Dated: 3 November 2015



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TIMOTHY P. MCILMAIL  
Administrative Judge  
Armed Services Board  
of Contract Appeals

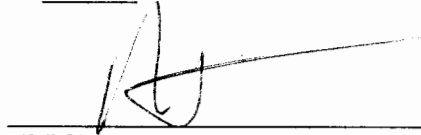
I concur



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MARK N. STEMLER  
Administrative Judge  
Acting Chairman  
Armed Services Board  
of Contract Appeals

I concur



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RICHARD SHACKLEFORD  
Administrative Judge  
Vice Chairman  
Armed Services Board  
of Contract Appeals

I certify that the foregoing is a true copy of the Order of Dismissal of the Armed Services Board of Contract Appeals in ASBCA No. 59923, Appeal of Hempt Bros., Inc., rendered in conformance with the Board's Charter.

Dated:



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JEFFREY D. GARDIN  
Recorder, Armed Services  
Board of Contract Appeals