

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Network Global Logistics, LLC) ASBCA No. 62345
)
Under Contract No. HT0014-16-P-1530)

APPEARANCE FOR THE APPELLANT: Christopher S. Young, Esq.
Business & Technology Law Group
Columbia, MD

APPEARANCES FOR THE GOVERNMENT: Erik A. Troff, Esq.
Deputy General Counsel
James A. Douglas, Esq.
Trial Attorney
Defense Health Agency
Falls Church, VA

ORDER OF DISMISSAL

Appellant filed its notice of appeal and complaint on January 6, 2020. Between January 30, 2020 and May 29, 2020, the government made five unopposed requests for extensions of time to file its answer and Rule 4 file to allow the parties an opportunity to resolve the appeal. The Board granted all of those requests.

On June 26, 2020, the government requested a 60-day stay of proceedings. On June 29, 2020, the Board sought appellant’s views on the requested stay. Appellant did not respond to that Order, nor to a July 14, 2020 Order directing it to respond to the June 29, 2020 Order. The Board subsequently found that the government’s request was reasonable and granted the 60-day stay. The Board also directed the parties to submit a status report at the stay’s conclusion. Neither party submitted status reports, and when reminded by the Board that the reports were overdue, the government requested that the appeal be dismissed and appellant requested that the Board allow the appeal to “remain open” until the appeal could be resolved.

On October 22, 2020, the Board held a conference call with counsel for both parties. At the conclusion of that call, counsel agreed that they would continue attempting to resolve the appeal, and were directed to inform the Board of the status of their discussions within 30 days. On November 23, 2020, the government provided the Board with what it termed a “joint status report.” In that report, the government stated that appellant’s counsel had authorized it to inform the Board that appellant “has not

responded to its counsel's repeated attempts to make contact, and 'seems not to be interested in taking action on this matter.'"

Board Rule 17, Dismissal or Default for Failure to Prosecute or Defend, states in part the following:

Whenever the record discloses the failure of either party to file documents required by these Rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed with prejudice for failure to prosecute.

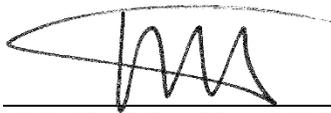
On December 1, 2020, the Board directed appellant to show cause why the appeal should not be dismissed with prejudice for lack of prosecution. Appellant was advised that if it did not respond to that Order by December 22, 2020, the Board intended to dismiss this appeal with prejudice with no further notice to the parties. Appellant did not respond to the December 1, 2020 Order. Accordingly, the appeal is dismissed with prejudice under Board Rule 17.

Dated: January 6, 2021



JOHN J. THRASHER
Administrative Judge
Chairman
Armed Services Board
of Contract Appeals

I concur



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

I concur



CRAIG S. CLARKE
Administrative Judge
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. 62345, Appeal of Network Global Logistics, LLC, rendered in conformance with the Board's Charter.

Dated: January 7, 2021



PAULLA K. GATES-LEWIS
Recorder, Armed Services
Board of Contract Appeals