

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Paradigm II, LLC, d/b/a JB Carpet &) ASBCA No. 55849
Upholstery Care)
)
Under Contract No. W911RX-05-D-0013)

APPEARANCE FOR THE APPELLANT: Mr. James L. Bolden, Jr.
Managing Member

APPEARANCES FOR THE GOVERNMENT: Raymond M. Saunders, Esq.
Army Chief Trial Attorney
CPT Tudo N. Pham, JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE PAUL
ON APPELLANT'S MOTION FOR RECONSIDERATION

On 8 June 2012, the Board denied Paradigm II, LLC's (Paradigm) certified claim in an amount of \$128,952.80 for breach of contract damages, unrealized anticipated profit and unabsorbed overhead damages. 12-2 BCA ¶ 35,067. Familiarity with that decision is presumed. On 6 July 2012, Paradigm filed a timely motion for reconsideration to which the government has responded. Paradigm has not filed a reply brief.

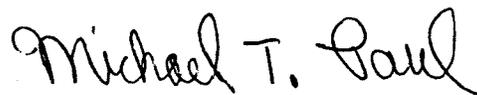
In order to prevail on its motion, Paradigm must establish a compelling reason for us to modify the original decision. In determining if that standard has been met, the Board looks to see whether there is newly discovered evidence, mistakes in the findings of fact or errors of law. *American AquaSource, Inc.*, ASBCA No. 56677, 10-2 BCA ¶ 34,590; *SplashNote Systems, Inc.*, ASBCA No. 57403, 12-1 BCA ¶ 35,003. A review of Paradigm's motion demonstrates that it has not presented any newly discovered evidence. In fact, the only "new evidence" which Paradigm includes with its motion is a pre-performance checklist sheet, dated 11 May 2005 (ex. A), which the government provided to it at the beginning of contractual performance. This document has been in Paradigm's files for over seven years and cannot be construed as "newly discovered evidence."

In its brief, Paradigm once again argues that it never rejected any delivery orders. But its unsworn allegations were rebutted at the hearing by the sworn testimony of Mr. Sandy Walker, the chief of job order contracting at Fort Riley, Kansas. 12-2 BCA ¶ 35,067 at 172,258. We, thus, reject Paradigm's attempt to reargue this—and several other—issues.

CONCLUSION

We have reconsidered our decision and reaffirm it.

Dated: 20 September 2012



MICHAEL T. PAUL
Administrative Judge
Armed Services Board
of Contract Appeals

I concur



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

I concur



EUNICE W. THOMAS
Administrative Judge
Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 55849, Appeal of Paradigm II, LLC, d/b/a JB Carpet & Upholstery Care, rendered in conformance with the Board's Charter.

Dated:

CATHERINE A. STANTON
Recorder, Armed Services
Board of Contract Appeals