

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeals of -- )  
 )  
Dennis Berlin, d/b/a Spectro Sort and as )  
Spectro Sort Manufacturing Company ) ASBCA Nos. 51919 51932 52400  
 )  
Under Contract No. F04606-93-D-0458 )

APPEARANCE FOR THE APPELLANT: Charles T. Yerxa, Jr., Esq.  
Clark & Nelson  
Colusa, CA

APPEARANCES FOR THE GOVERNMENT: COL Alexander W. Purdue, USAF  
Chief Trial Attorney  
LT COL Daniel F. Doogan, USAF  
CAPT Robert G. Hanseman, USAF  
Trial Attorneys

OPINION BY ADMINISTRATIVE JUDGE FREEMAN ON  
RESPONDENT' S MOTION FOR RECONSIDERATION

The Government moves for reconsideration of our decision of 10 August 2000 denying its motion to dismiss. The Government argues that because "Spectro Sort" represented in its bid that it was a corporation, the only possible contractor in this matter was the entity named "Spectro Sort, Inc.," a corporation whose corporate powers were suspended and which lacked the capacity to contract. We rejected this argument in our first decision, and we remain unpersuaded by its repetition. *See Winfield Manufacturing Company*, ASBCA No. 35743, 36046, 89-3 BCA ¶ 22,212.

The Government continues to ignore the fact that the contract was bid and awarded in the name of "Spectro Sort", a fictitious business name of Mr. Dennis Berlin. It was not bid and awarded in the name of "Spectro Sort, Inc.", the suspended corporation. In the cases cited by the Government, the named awardee was a suspended or dissolved corporation which lacked the legal capacity to contract. In the present case, the named awardee is a fictitious business name of a natural person who did not lack the legal capacity to contract in that name.

The motion for reconsideration is denied.

Dated: 1 December 2000

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MONROE E. FREEMAN, JR.  
Administrative Judge  
Armed Services Board  
of Contract Appeals

I concur

I concur

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

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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. 51919, 51932, 52400, Appeals of Dennis Berlin, d/b/a Spectro Sort and as Spectro Sort Manufacturing Company, rendered in conformance with the Board's Charter.

Dated:

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EDWARD S. ADAMKEWICZ  
Recorder, Armed Services  
Board of Contract Appeals