

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Public Warehousing Company, K.S.C.) ASBCA No. 56116
)
Under Contract Nos. SPO300-03-D-3061)
SPM300-05-D-3119)
SPM300-05-D-3128)

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OPINION BY ADMINISTRATIVE JUDGE TING
ON THE GOVERNMENT'S SECOND MOTION TO STAY

On 31 January 2008, we granted the government's motion staying proceedings in this appeal until 1 June 2008. *Public Warehousing Company, K.S.C.*, ASBCA No. 56116, 08-1 BCA ¶ 33,787 (*PWC I*). Familiarity with that decision is presumed. At or about expiration of the stay, the parties agreed to extend the stay for two more months for settlement discussions. When that extension expired on 31 July 2008, PWC resumed discovery and renewed its request for subpoenas for the depositions of two contracting officers (CO). After the Board issued the requested subpoenas, the government moved to quash the subpoenas, and to stay proceedings for another six months until 31 March 2009. PWC opposed the motion.

In its surreply, PWC suggested two alternative ways in which to proceed: (1) the Board should deny the government's second motion to stay and permit discovery to go forward, or (2) the Board should deny the motion to stay and allow the appeal to go forward without discovery and allow PWC to file a motion for summary judgment. (App. surreply at 10)

Upon review of the parties' filings, we conclude that the factors which persuaded us to grant the initial stay are still in place. Although PWC has offered to narrow its arguments, we are not in a position to evaluate how that would work until we see its motion for summary judgment, and the government has had an opportunity to respond to it.

Accordingly, we grant the government's motion to stay proceedings in this appeal until 31 March 2009, with the exception that PWC may file a motion for summary judgment. The government's motion to quash the two subpoenas issued is also granted.

Dated: 18 December 2008

PETER D. TING
Administrative Judge
Armed Services Board
of Contract Appeals

I concur

I concur

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

MONROE E. FREEMAN,
Administrative Judge
Acting 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. 56116, Appeal of Public Warehousing Company, K.S.C., rendered in conformance with the Board's Charter.

Dated:

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