

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
High-Tech Launderette LLC) ASBCA No. 62259
)
Under Contract No. IRW 17-089)

APPEARANCE FOR THE APPELLANT: Mrs. Nanhui Merritt
Owner

APPEARANCES FOR THE GOVERNMENT: Scott N. Flesch, Esq.
Army Chief Trial Attorney
MAJ Abraham Young, JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL ON GOVERNMENT'S
MOTION TO DISMISS FOR LACK OF JURISDICTION

The government moves to dismiss for lack of jurisdiction this appeal from an August 12, 2019 notice that the government would terminate appellant's concession contract effective November 12, 2019 (R4, tab 6). Appellant (1) asks that the Board order the government to "immediately cease and desist their cancellation action," and (2) claims "approximately \$150,000" in monetary relief (Notice of Appeal at 2). Appellant's October 28, 2019 claim to the contracting officer requests a monetary amount "estimated to be in excess of \$150,000.00," in breach damages consisting of "a minimum of \$150,000.00 in lost revenue." (R4, tab 11) The government says that we lack jurisdiction because (1) the "cease and desist" request is one for injunctive relief, and (2) appellant has not claimed a "sum certain."

We agree with the government on both counts. The "cease and desist" request is one for injunctive relief that we do not possess jurisdiction to entertain. *Cf. Puma Energy Honduras, S.A. De C.V.*, ASBCA No. 61966, 2020 WL 741650 (Jan. 14, 2020) (request that the Board declare that a contract was still valid and in place and that appellant may deliver fuel to the government was request for injunctive relief; no jurisdiction). The monetary request is for a qualified amount, and, therefore, not a "sum certain"; consequently, we do not possess jurisdiction to entertain that request. *Cf. Joseph Sottolano*, ASBCA No. 59777, 15-1 BCA ¶ 35,970 at 175,735 (claim for "approximately \$11,000" was not one for a sum certain; no jurisdiction); *Sandoval Plumbing Repair, Inc.*, ASBCA No. 54640, 05-2 BCA ¶ 33,072 at 163,933 (claim for "no less than \$1,072,957.05" was not a sum certain; no jurisdiction); *Godwin Equip.*,

Inc., ASBCA No. 53462, 02-1 BCA ¶ 31,674 at 156,530 (claim for damages stated as “in excess of” \$5,000,000 was not one for a sum certain; no jurisdiction).

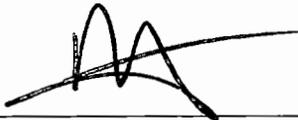
The appeal is dismissed for lack of jurisdiction.

Dated: February 26, 2020



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

I concur



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

I concur



OWEN C. WILSON
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. 62259, Appeal of High-Tech Launderette LLC, rendered in conformance with the Board’s Charter.

Dated:

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