

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Accel Pacific Joint Venture) ASBCA No. 62161
)
Under Contract No. W912QR-13-C-0024)

APPEARANCE FOR THE APPELLANT: David A. Rose, Esq.
Rose Consulting Law Firm
Valdosta, GA

APPEARANCES FOR THE GOVERNMENT: Michael P. Goodman, Esq.
Engineer Chief Trial Attorney
R. Lauren Horner, Esq.
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Brett R. Howard, Esq.
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U.S. Army Engineer District, Louisville

ORDER OF DISMISSAL WITH PREJUDICE

The Board has received appellant's motion to dismiss the appeal with prejudice dated February 25, 2021. The motion is styled as one to dismiss with prejudice, expressly requests that the dismissal be with prejudice and was submitted in response to the Board's order dated January 11, 2021, which the Board issued requiring appellant to show cause why the appeal should not be dismissed for its failure to prosecute the appeals in accordance with the Board's rules and orders. Despite the motion's style and the express request for dismissal with prejudice, the motion cites Board Rule 18(b) and Federal Rules of Civil Procedure, Rule 42(a)(2), which contemplate dismissal without prejudice. Although unsure of appellant's intent due to this conflict, we find appellant has failed to provide justification for its failure to have prosecuted its appeal and dismiss the appeal with prejudice pursuant to Board Rule 17 and the Board's January 11, 2021 show cause order.

Dated: March 3, 2021



CHRISTOPHER M. MCNULTY
Administrative Judge
Armed Services Board
of Contract Appeals

(Signatures continued)

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 Order of Dismissal of the Armed Services Board of Contract Appeals in ASBCA No. 62161, Appeal of Accel Pacific Joint Venture, rendered in conformance with the Board's Charter.

Dated: March 5, 2021



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