

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Zafer Taahhut Insaat Ve Ticaret) ASBCA No. 63737
)
Under Contract No. N33191-21-F-4389)

APPEARANCE FOR THE APPELLANT: Sam Zalman Gdanski, Esq.
Gdanski Law PC
Teaneck, NJ

APPEARANCES FOR THE GOVERNMENT: Allison M. McDade, Esq.
Navy Chief Trial Attorney
Kevin Bolin, Esq.
Trial Attorney

ORDER OF DISMISSAL

On May 31, 2024, the government filed a request to dismiss this appeal with prejudice. In its request, the government indicated that the parties executed an agreement settling this appeal on January 15, 2024. The agreement required appellant to move the Board to dismiss the appeal with prejudice within five calendar days of receiving payment. The government provided an exhibit showing that the settlement payment was made to appellant on February 28, 2024. Appellant has not filed a motion to dismiss.

By Orders dated June 17, 2024 and July 12, 2024, the Board directed appellant to respond to the government's request to dismiss. Appellant did not file a response to the government's request to dismiss. On August 5, 2024, the Board issued an Order to Show Cause, directing appellant to respond no later than 21 days from the date of the Order on why the Board should not dismiss this appeal with prejudice, under Board Rule 17, for failure to prosecute. Appellant did not file a response to the Order to Show Cause. On September 6, 2024, a staff attorney from the Board called appellant to inquire on its status in filing a response to the government's request to dismiss. Appellant stated that it expected to file its response on September 9, 2024. Appellant has not filed this response.

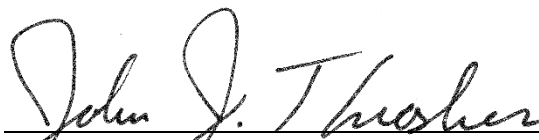
On May 21, 2025, the government filed a request to dismiss this appeal with prejudice pursuant to Board Rule 17. In this request, the government reiterated appellant's repeated failures to respond to, and comply with, the aforementioned Board Orders. The government also contended that appellant has abandoned this appeal following receipt of the settlement payment, even though appellant (represented by the same counsel) is still actively litigating the related appeals of ASBCA No. 63951 *et al.*

Appellant has failed to file either: (1) a motion to dismiss pursuant to the parties' settlement agreement; (2) a response to the government's May 31, 2024 request to dismiss following settlement payment; or (3) a response to the Board's August 5, 2024 Order to Show Cause.

Accordingly, we grant the government's requests to dismiss. *See Mansoor Int'l Dev. Servs.*, ASBCA No. 58423 *et al.*, 2019 WL 3842468 (Aug. 1, 2019) (dismissing the appeals with prejudice after the parties executed a settlement agreement, but appellant failed to file either a motion to dismiss or a response to the government's motion to dismiss); *The Minesen Co.*, ASBCA Nos. 62096, 62104, 25-1 BCA ¶ 38,799 at 188,705 (dismissing the appeals with prejudice under Board Rule 17 upon concluding, "that appellant's lack of communication reflects an intention not to continue the prosecution of this appeal").

The appeal is dismissed with prejudice under Board Rule 17 for failure to prosecute.

Dated: May 27, 2025



JOHN J. THRASHER
Administrative Judge
Chairman
Armed Services Board
of Contract Appeals

I concur



OWEN C. WILSON
Administrative Judge
Vice Chairman
Armed Services Board
of Contract Appeals

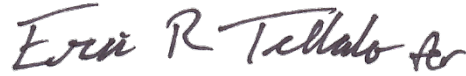
I concur



MICHAEL N. O'CONNELL
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. 63737, Appeal of Zafer Taahhut Insaat Ve Ticaret, rendered in conformance with the Board's Charter.

Dated: May 27, 2025

A handwritten signature in dark ink, appearing to read "Paula K. Gates-Lewis", written in a cursive style.

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