U.S. Department of Labor

Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

In the Matter of:

JOSEPH TRACANA,

COMPLAINANT,

v.

ARCTIC SLOPE INSPECTION SERVICE (ASIS),

RESPONDENT.

ARB CASE NO. 97-123

(ALJ CASE NO. 97-WPC-1)

DATE: JUL 25 1997

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER TO SHOW CAUSE

On July 3, 1997, Administrative Law Judge (ALJ) Henry B. Lasky issued a Recommended Order of Dismissal (R. 0. D.) in this matter arising under the Water Pollution Control Act, 33 U.S.C. §1367 (1988). A hearing was scheduled to be conducted on July 16, 1997; however, on June 24, 1997, Respondent moved to dismiss the case with prejudice on the grounds that Complainant had failed and/or refused to comply with discovery requests, had failed to make himself available for scheduled depositions, and failed to comply with previous orders issued by the ALJ.

Accordingly, on June 25, 1997, the ALJ issued an Order to Show Cause why the matter should not dismissed with prejudice. Complainant responded to the Order to Show Cause in a letter dated July 2, 1997. The ALJ found that Complainant, acting *pro se,* had "not shown good cause or any cause as to why the motion to dismiss should not be granted." R.O. D. at 1.

Previously, Respondent had filed interrogatories and requests for production of documents dated March 28, 1997. Complainant failed to respond to the discovery requests and on May 22, 1997, the ALJ ordered Complainant to show cause, on or before June 6, 1997, why Respondent's requests for admission should not be admitted. Complainant failed to respond to that Order to Show Cause and on June 10, 1997, the ALJ issued an Order that all Respondent's requests for admissions be deemed admitted. Sanctions short of dismissal were ordered by the ALJ on June 13, 1997 for Complainant's failure to comply with Respondent's discovery requests. A deposition of Complainant was scheduled for June 16, 1997 and then rescheduled for June 19, 1997 at Complainants's request and for his convenience. One hour prior to the rescheduled

deposition, Complainant notified counsel for Respondent that he would not make himself available for the deposition. Based on this procedural history, the ALJ issued his R.O.D.

Complainant has **fifteen days** from the date of this order to show cause why this case should not be dismissed with prejudice by filing his response with the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-4309, Washington, D.C., 20210. If Complainant files a response to this Order to Show Cause, Respondent may file a reply with the Board with 10 days of the date of Complainant's statement.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Gerald F. Krizan

Executive Director

Telephone: (202) 219-4728

Facsimile: (202) 219-9315