

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue Date: 09 April 2013

Case Number: 2012-DBA-00010

In the Matter of:

Proposed debarment for labor standards violations by:

**WHITE STAR COMMERCIAL, INC. d/b/a
WHITE STAR PLUMBING, INC.**
Subcontractor,

and

JOSEPH WALTER LEWIS, JR.,
Individually,

Respondents,

With respect to employees and plumbers employed by the Subcontractor under Contract No. 5380 for construction services at the C.J. Peete public housing development located in New Orleans, Louisiana.

ORDER OF DEFAULT JUDGMENT

This case arises under the Reorganization Plan No. 14 of 1950, (64 Stat. 1267); the Davis-Bacon Act, as amended, 40 U.S.C. § 3141, *et seq.*; the Housing and Community Development Act of 1974 (secs. 110, 802(g), 88 Stat. 649, 724; 42 U.S.C. 5310, 1440(g)); and the applicable regulations issued thereunder at 29 C.F.R. Parts 5 and 6.

By letter dated October 13, 2011, the Wage and Hour Division of the United States Department of Labor (Plaintiff) notified the above-named Respondents that they breached a contract with the United States government and violated the aforementioned Acts and regulations. On August 10, 2012, Plaintiff filed an Order of Reference with the Office of Administrative Law Judges (OALJ) requesting debarment proceedings against Respondents.

On August 16, 2012, this Office issued a Prehearing Order instructing Plaintiff to furnish Respondents with certain information, including a list of employees who were allegedly underpaid and the amount of the alleged underpayments. Pursuant to the Prehearing Order, Respondents were required to file an answer admitting or denying the information within 20 days from receipt thereof. On September 4, 2012, Plaintiff filed a copy of its Prehearing Exchange

information with this office and served Respondents with a copy at the same time. Respondents, however, failed to file an answer to Plaintiff's Prehearing Exchange, and on November 16, 2012, the undersigned issued an Order to Show Cause directing Respondents to explain within 30 days thereafter why a default judgment should not be entered against them. To date, Respondents have neither responded to my Order to Show Cause, nor have they filed an answer responding to Plaintiff's Prehearing Exchange.

Based on the foregoing sequence of events, I instructed my law clerk on or about March 11, 2013 to contact Respondents to determine whether they intended to comply with my Prehearing Order or to respond to Plaintiff's Prehearing Exchange. On March 25, 2013, George Gates, IV, Respondents' attorney, submitted a "Motion to Set for Status Hearing" with attached correspondence in which he requested that this "matter be set for a hearing for the purpose of moving this matter forward." No response to my Prehearing or Show Cause Orders was ever filed.

After receiving Mr. Gates' correspondence and motion, I instructed my law clerk to contact Respondents' counsel to: (1) inform him that responses to my Prehearing Order and Order to Show Cause Order were required before any further action in the case would be taken, and (2) instruct Mr. Gates to contact OALJ immediately. Although Respondents' attorney subsequently indicated in emails received by OALJ on March 26 and 27, 2013 that he would contact OALJ, he never did. My law clerk has attempted to contact Respondents' attorney via telephone and email several times since that date to determine whether Respondents intend to file an answer to Plaintiff's Prehearing Exchange information or respond to my Order to Show Cause, all to no avail. On April 8, 2013, my law clerk was informed by counsel for the Administrator that she has not communicated with Mr. Gates and did not know if he planned to file an answer to her Prehearing Information or respond to my Show Cause Order.

The regulations at 29 C.F.R. § 18.6 (d) (2) (v) provide that:

If a party or an officer or agent of a party fails to comply with a subpoena or with an order . . . of the administrative law judge, the administrative law judge, for the purpose of permitting resolution of the relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may . . . [r]ule that a pleading, or part of a pleading, or a motion or other submission by the non-complying party, concerning which the order or subpoena was issued, be stricken, or that a decision of the proceeding be rendered against the non-complying party, or both.

Respondents have consistently failed to respond to, or comply with, my prior Orders. No answer to Plaintiff's Prehearing Exchange information has been filed, and such answer is now approximately 6 months overdue. Similarly, Respondents have not responded to my November 16, 2012 Order to Show Cause, and any response to that Order is now nearly 4 months overdue. In my Order to Show Cause, I expressly warned Respondents that failing to respond to, or comply with, my Orders could result in the entry of a default judgment against them. Despite repeated efforts to bring them into compliance, no responses from Respondents or their attorney have been forthcoming.

For the foregoing reasons, it is hereby ORDERED that a default judgment is entered against Respondents. Respondents, and any firm, corporation, partnership, or association in which they have a substantial interest shall be barred from doing business with the United States government as a contractor or subcontractor under any of the Acts listed in 29 C.F.R. § 5.1 for a period of three (3) years from the date of publication by the Comptroller General of the Respondents' names. *See* 29 C.F.R. § 5.12(a)(1).

SO ORDERED.

STEPHEN L. PURCELL
Chief Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review (“Petition”) that is received by the Administrative Review Board (“Board”) within forty (40) days of the date of issuance of the administrative law judge’s decision. *See* 29 C.F.R. § 6.34. The Board’s address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. The Petition must refer to the specific findings of fact, conclusions of law, or order at issue. *See* 29 C.F.R. § 6.34. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

When a Petition is timely filed with the Board, the administrative law judge’s decision is inoperative until the Board either (1) declines to review the administrative law judge’s decision, or (2) issues an order affirming the decision. *See* 29 C.F.R. § 6.33(b)(1).

At the time you file the Petition with the Board, you must serve it on the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. *See* 29 C.F.R. § 6.34.