



**Issue Date: 21 December 2006**

**Case No.: 2006-SCA-00017**

*In the Matter of*

**JAMES J. BEATTY, JR.**  
**d/b/a BEAR TRANSPORTATION SYSTEMS**  
**d/b/a BEATTY TRANSPORT SERVICE**  
**d/b/a JVB CONSOLIDATED**  
**d/b/a BTS**

*Respondent.*

**DECISION AND ORDER GRANTING**  
**MOTION FOR DEFAULT JUDGMENT**

This proceeding arises under the provisions of the McNamara-O'Hara Service Contract Act, 41 U.S.C. § 351 *et seq.*, as implemented by regulations found at 29 C.F.R. Parts 4, 5, 6, and 18. The U.S. Department of Labor has filed a Complaint against James J. Beatty, Jr., Respondent, alleging that the Respondent breached contracts with the United States government and violated the aforementioned Acts and Regulations.

On April 27, 2006, this Office issued a Notice of Docketing ordering the Respondent to file an Answer to the complaint within 30 days of service, as required by 29 C.F.R. § 6.16. The Notice of Docketing was sent to the Respondent at 16 Essex Street, Norton, Massachusetts, 02766, as well as to 586 Quaker Highway, Uxbridge, Massachusetts, 01569-2223. The Notice of Docketing sent to the Essex Street address was returned marked "Beatty moved left no address, unable to forward, return to sender." The Notice of Docketing sent to the Quaker Highway address was returned marked "Not deliverable as addressed" and "Attempted – not known." The June 15, 2006, Notice addressed to the Respondent at the Essex Street address was returned, marked "Beatty moved left no address, unable to forward, return to sender." The September 18, 2006, Notice of Hearing mailed to the Respondent at the Quaker Highway address was returned marked "Return to sender, not deliverable as addressed, unable to forward." Additionally, via telephone conversation on October 16, 2006, the OALJ learned that Mr. Theodore J. Koban is not the Respondent's attorney and has not been in contact with the Respondent since April, 2006. Mr. Koban does not have a current address for the Respondent.

As a result of the several failed attempts to contact the Respondent, this Office issued a Notice and Order on October 17, 2006, ordering the U.S. Department of Labor to locate the Respondent and advise the undersigned on how it wishes to proceed with this claim. On November 18, 2006, the Department of Labor submitted an Administrator's Notice of Compliance with Order and Motion for Default Judgment, as well as an Administrator's Contingent Motion for a One Week Continuance of Trial Date. The Department of Labor itemized its efforts to contact the Respondent.

Nanci M. Mills, the Wage and Hour Investigator assigned to the claim, declared in a sworn affidavit that she used online and Westlaw resources to search for the Respondent in the southeast quadrant of Massachusetts, where the Respondent's place of business and last known addresses were located. *Exhibit A of Motion for Default Judgment*. Ms. Mills contacted two men with the same name as the Respondent. The first was the Respondent's father, who admitted he had not been in contact with the Respondent in over two years and did not know his whereabouts. Ms. Mills then contacted the second man, but he was not the Respondent and is unrelated to the Respondent.

By Order dated November 21, 2006, the hearing was cancelled and the Respondent was given until December 13, 2006 to respond to the Department of Labor's motion. As of the date of this Decision, no response has been received from the Respondent.

Having found that the Respondent has failed to respond to the Notice of Docketing by issuing an Answer to the complaint, and having had all attempts to contact the Respondent fail, I find that the Respondent has waived his right to a hearing and hereby GRANT the Department of Labor's Motion for Default Judgment.

It is hereby ORDERED that:

1. All allegations of the complaint and the Department of Labor's Motion for Default Judgment are deemed admitted and all material facts contained therein are adopted as Findings of Fact.
2. Respondent, James J. Beatty, Jr., d/b/a Bear Transportation Systems, d/b/a Beatty Transport Service, d/b/a JVB Consolidated, d/b/a BTS, shall pay to the Department of Labor \$7,449.62, which has been withheld by the United States Postal Service, to be distributed to his employees identified in Exhibit A-1 of the Motion for Default Judgment.
3. The Department of Labor shall cause to be disbursed to the employees identified in Exhibit A-1, or to their estates if necessary, the wage amounts due under the McNamara-O'Hara Service Contract Act set forth therein. Any monies not so paid within one year because of inability to locate the proper persons or because of their refusal to accept such payment shall be recovered into the Treasury of the United States as miscellaneous receipts.

It is further ORDERED that each party shall bear its own costs, fees, and other expenses incurred in connection with any stage of this proceeding.

**SO ORDERED.**

**A**

JOHN M. VITTON  
Chief Administrative Law Judge

**NOTICE:** To appeal, you must file a written petition for review with the Administrative Review Board (“ARB”) within 40 days after the date of this Decision and Order (or such additional time that the ARB may grant). *See* 29 C.F.R. § 6.20. The Board’s address is:

Administrative Review Board  
United States Department of Labor  
Room S-4309  
200 Constitution Avenue, NW  
Washington, DC 20210

A copy of any such petition must also be provided to the Chief Administrative Law Judge, Office of Administrative Law Judges, 800 K Street, NW, Washington, DC 20001-8002. Your petition must refer to the specific findings of fact, conclusions of law, or order at issue.

The ARB’s Rules of Practice further require that the petitioner provide to the ARB an original and four copies of the petition and any other papers submitted to the ARB. 29 C.F.R. § 8.10(b). Service is to be in person or by mail. 29 C.F.R. § 8.10(c). Service by mail is complete on mailing, and the petition is considered filed upon the day of service by mail. 29 C.F.R. § 8.10(c). The petition must contain an acknowledgement of service by the person served or proof of service in the form of a statement of the date and the manner of service and the names of the person or persons served, certified by the person who made service. 29 C.F.R. § 8.10(d).

A copy of the petition is also required to be served upon the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210; the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210; the Federal contracting agency involved; and all other interested parties. 29 C.F.R. § 8.10(e).