



Issue Date: 25 February 2015

Case Number: 2014-SCA-00001

In the Matter of:

**CORPORATE PROTECTIVE SERVICES and
COREY PAULK,**

Respondents.

ORDER GRANTING DEFAULT JUDGMENT

This case arises under the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. §§ 6701-6707, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 327, *et seq.*, and the implementing regulations issued at 29 C.F.R. Part 4 and 6.

On December 5, 2013, the Associate Regional Solicitor ("Plaintiff"), United States Department of Labor, Atlanta Regional Office, filed a Complaint with the Office of Administrative Law Judges ("Office") against the above-named Respondents.¹ On December 17, 2013, this Office issued a *Notice of Docketing* to Respondents directing them to file an Answer to the Complaint within thirty days.

After sending the *Notice of Docketing* to above-named Respondent Corey Paulk, at the address provided, this Office received a "Return to Sender" notice on December 24, 2013 from the following address:

Corey Paulk
Taylin Group
5971 N. Jesup Highway, #A
BRUNSWICK, GA 31523-1633

Efforts were made by representatives of this Office to obtain a more recent address as the U.S. Postal Service was unable to forward the *Notice of Docketing*. Plaintiff indicated that Respondent did not provide a current address during the investigation and has not since provided

¹ In the Complaint, Plaintiff alleged that Respondents failed to pay minimum monetary wages, furnish fringe benefits, and compensate for overtime hours worked to its employees between the period April 1, 2012 and September 30, 2012, as required under Contract No. FA4830-12-M-5007 with the United States Air Force. The Air Force withheld the amount allegedly due, \$15,627.67, from the total payment due Respondents under the contract.

such an address. As of the date of this Order, Respondent has not provided a change of address to this Office.

On February 11, 2014, Plaintiff filed a *Motion for Entry of Default Judgment* noting that Respondents' response was due this Office on or before January 1, 2014. Plaintiff stated that "Defendants' failure to answer or plead to any allegations of the complaint constitutes an admission of each allegation." In response, this Office issued an *Order to Show Cause* on February 12, 2014, highlighting the ramifications under 29 C.F.R. § 6.16(c) of not replying to the *Notice of Docketing*. The *Order to Show Cause* stated, in underlined text, what this Office was asking from Respondents, that Respondents were required to show cause "why a default judgment should not be entered in this matter and why the material facts alleged in the complaint should not be adopted as my findings of fact." This Office included the specific consequences of non-response being: an "assessment of back wages allegedly due" and publication of each Respondent's name on the Comptroller General's debarment list of contractors ineligible to enter into a contract with the U.S. government for a period of three years from the date of publication. Though the *Order to Show Cause* was served on Respondents at the same address as listed above, it was not returned to sender. As of the date of this order, Respondents' have not filed a response to the *Notice of Docketing* or an Answer to the *Order to Show Cause*.

Plaintiff filed a *Renewed Motion for Entry of Default Judgment* on February 18, 2015 "for the reason that said Defendants have failed to plead or otherwise defend." Plaintiff states that "Defendants' failure to respond to the Secretary's Complaint and the Court's Order constitutes an admission of each allegation." Plaintiff "requests the Court enter a default judgment against Defendants finding that no unusual circumstances exist that would relieve Respondents from the ineligibility sanctions provided in § 5(c) of SCA, 41 U.S.C. § 354(a); and the aforesaid CWHSSA violations were aggravated or willful thereby subjecting Respondents to the ineligibility sanctions provided in Regulation found at 29 C.F.R. § 5.12(a)(1)." Additionally, Plaintiff indicates that on February 21, 2014, nine days after this Office issued the *Order to Show Cause*, Respondent "Corey Paulk sent a signed letter authorizing the release of back wages sought in this case to the Department of Labor."

The regulations at 29 C.F.R. § 6.16(c) provide that:

Failure to file an answer shall constitute grounds for waiver of hearing and entry of a default judgment unless respondent shows good cause for such failure to file. In preparing the decision of default judgment the Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint and shall order the appropriate relief and/or sanctions.

Respondents have consistently failed to respond to, or comply with, this Office's prior Orders. No Answer to the Complaint has been filed as of the date of this Order, and such answer is well over a year overdue.

While the *Notice of Docketing* was returned to sender, the *Order to Show Cause*, mailed to the same address, was not returned to this Office, implying a presumptive delivery. In addition, as Plaintiff avers, Respondent authorized release of the back wages from the U.S. Air Force's withheld funds nine days after this Office issued the *Order of Show Cause* on February 21, 2014, strong circumstantial evidence that Respondents' received the Order to Show Cause. Accordingly, it is evident that Respondents are aware of the case and the allegations against it and chose to respond directly to Plaintiff rather than filing a response directly with this Office. The Court, therefore, concludes that Respondents received notice of this matter and is aware of the remaining issues pending before this Office.

In both the *Notice of Docketing* and the *Order to Show Cause*, Respondents were expressly warned that failing to respond to, or comply with, binding regulations could result in the entry of a default judgment against them. Despite the repeated exhortations to comply and the significant amount of time provided to do so, Respondent has made no attempt to file a response with this Office. While it appears Respondents replied to Plaintiff directly following the *Order to Show Cause*, it has made no attempt to respond with this Office as required by the *Notice of Docketing* and the *Order to Show Cause*.

For the foregoing reasons, it is hereby **ORDERED** that:

1. Default judgment is entered against Respondents;
2. The allegations in Plaintiff's complaint are adopted as my findings of fact;
4. Respondents' names shall be placed on the list maintained by the Comptroller General of the United States, of persons or firms having been found to have violated the Act, and therefore having become ineligible, for the period of three (3) years from the date of publication on the list, for the award of any contract of the United States under 41 U.S.C. §354(a) as provided in § 5(a) of the SCA.

SO ORDERED:

STEPHEN R. HENLEY
Acting 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
Suite S-5220
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. A petition concerning the decision on the ineligibility list shall also state the unusual circumstances or lack thereof under the Service Contract Act, and/or the aggravated or willful violations of the Contract Work Hours and Safety Standards Act or lack thereof, as appropriate.

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).