



**Issue Date: 09 March 2015**

**Case Number: 2014-SCA-00012**

*In the Matter of:*

**INNOVATIVE CONCEPT SOLUTIONS  
INTERNATIONAL, a sole proprietorship, and  
LORRAINE THOMAS,**

*Respondents.*

**ORDER GRANTING MOTION FOR DEFAULT JUDGMENT**

This case arises under the McNamara-O'Hara Service Contract Act ("SCA") of 1965, as amended, 41 U.S.C. § 6701 et seq., and its implementing regulations at 29 C.F.R. Parts 4 and 6.

This matter commenced on August 19, 2014 when the Associate Regional Solicitor, United States Department of Labor, Arlington Regional Office ("Complainant"), filed a Complaint<sup>1</sup> with the Office of Administrative Law Judges ("Office") against the above-named Respondents based on alleged violations of the SCA. The filing indicates that the Complaint was served on Respondents on August 15, 2014.

On August 27, 2014, this Office issued a *Notice of Docketing* directing the Respondents to file an answer to the Complaint within 30 days. This Office thereafter attempted service on Respondents of the *Notice of Docketing*. On September 15, 2014, Respondent Lorraine Thomas faxed this Office a copy of correspondence sent to Complainant on September 15, 2014, addressing the current status of Innovative Concept Solutions International ("ICSI"). Respondent Ms. Thomas stated that the "company was defunct in 2012" and, at the time, she did "not have a clear understanding of what [Complainant is] claiming I owe. If you would like to discuss this matter further you can reach me on my mobile number." She provided contact information in this correspondence. While this Office received this initial correspondence, as of the date of this Order, some five months later, Respondents have not filed an Answer as detailed in the *Notice of Docketing* and required under 29 C.F.R. § 6.16(a).

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<sup>1</sup> In the Complaint, Complainant states Respondents were awarded several purchase orders under a government contract and alleges Respondents failed to pay service employees the minimum wages, fringe benefits and vacation wages as identified in the contract and required under the SCA in the amount of \$41,347.44. Respondents failed to provide adequate records and have not paid the amount allegedly owed after becoming aware of the violations. Complainant now seeks the amount due.

On December 2, 2014, Complainant filed a *Motion for Entry of a Default Judgment*, stating, “Respondents’ failures to participate in the litigation of this matter, and without good cause shown, warrant the entry of a default judgment for the relief requested in the Department’s Complainant.” Complainant listed its counsel’s initial communications with Ms. Thomas but it “has not received any communications from Ms. Thomas since approximately September 26, 2014. Ms. Thomas has not responded to numerous e-mails, and the phone number at which she was initially available is no longer in service.” Complainant affirmed representations made by Ms. Thomas’ September 15, 2014 correspondence in that “ICSI had been defunct since 2012” and also stated that Ms. Thomas “had filed for bankruptcy in September 2014.” Complainant detailed what communications it had with Ms. Thomas until on or about September 26, 2014,<sup>2</sup> after which Complainant attempted to communicate with Ms. Thomas on several occasions, on or about November 13, 2014, November 18, 2014, and December 1, 2014 both via phone and e-mail. According to Complainant “Ms. Thomas has not responded to [Complainant’s] attempted telephone and email communications in the months of November and December.”

As stated above, the regulation at 29 C.F.R. § 6.16(a) provides that Respondents shall file with the Chief Administrative Law Judge an Answer to the Complaint within thirty (30) days after service of the Complaint, signed by Respondents or counsel for Respondents. Failure to file an Answer constitutes an admission of all of the allegations in the Complaint, and may result in the loss of the right to a hearing and in the entry of a default judgment.<sup>3</sup> See 29 C.F.R. § 6.16(b) and (c). In this case, Complainant has detailed its initial communications with Ms. Thomas and subsequent attempts to continue “potential resolution of the matter” as discussed in their initial conversations. Nevertheless, Complainant “has not communicated with Ms. Thomas since September 26, 2014.”

This Office issued an initial *Order to Show Cause* on December 15, 2014 and subsequently issued a *Second Order to Show Cause* on January 28, 2015. Both *Orders* included the above information. The first *Order to Show Cause* was served on Respondent Lorraine Thomas’ Hyattsville, Maryland, address. Following the issuance of the first *Order to Show Cause*, Complainant’s counsel indicated that Ms. Thomas appears to have moved to a new address in Charlotte, North Carolina. As a result, this Office issued a *Second Order to Show Cause* to both Respondent’s Hyattsville, Maryland, and Charlotte, North Carolina, addresses.

In this *Second Order to Show Cause*, I specifically warned Respondent of the effect of her nonresponse, i.e. entry of a default judgment. Both the December 15, 2014 and the January 28, 2015 *Orders to Show Cause* detailed the effect of a default judgment against Respondent: “Entry of a default judgment may result in the assessment of \$41,347.44, the combined total of the alleged underpayment of wages, fringe benefits, and vacation pay, and Respondents may also be denied the award of any contracts with the United States government for a period of three (3)

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<sup>2</sup> While the attorney representing Complainant took leave for personal reasons from on or about October 6 until October 31, 2014, “[a]nother attorney ... was made available as an alternative contact for Ms. Thomas during this period; however, Ms. Thomas never contacted the attorney.”

<sup>3</sup> In such a case, the regulation at 29 C.F.R. § 6.16(c) provides 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.”

years from the publication date of the Comptroller General's debarment list containing Respondents' names, as mentioned in the Complaint."

As the *Second Order to Show Cause* was issued on January 28, 2015, Respondent's response is now well overdue. And as of the date of this Order, this Office has not received correspondence from any Respondent since September 15, 2014. On February 23, 2015, this Office did receive an unclaimed mail enveloped from the Charlotte, North Carolina, address, but not one from the Hyattsville, North Carolina, address. The returned envelop indicates that Ms. Thomas was "Not at this address as of 23 DEC 14 + Return 2 Sender".

On February 26, 2015, Complainant renewed its December 2, 2014 *Motion for Entry of a Default Judgment and Proposed Decision and Default Judgment*. According to Complainant, "despite initial communications, Respondents have not communicated or attempted to communicate with the undersigned since approximately September 26, 2014."

It is clear from the information provided by Complainant that Complainant and Respondent have not communicated for a considerable amount of time. And, more importantly, Respondent has failed to provide any indication of an interest in continuing the litigation of this matter with this Office.

The regulation at 29 C.F.R. §6.16(a) provides that Respondents shall file with the Chief Administrative Law Judge an answer signed by his attorney within thirty (30) days after service of the Complaint, signed by Respondents' attorney(s). Failure to file an answer shall constitute an admission of the allegations made in the complaint. *See* 29 C.F.R. § 6.16(b). In such a case, the regulation at 29 C.F.R. § 6.16(c) provides 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.

Respondent has failed to timely Answer the Complaint as required under 29 C.F.R. § 6.16(a).

In the *Notice of Docketing*, Respondents were first warned that "Failure to file an Answer constitutes an admission of all of the allegations in the Complaint, and may result in the loss of the right to a hearing and in the entry of a default judgment." Similarly, in the both the first *Order to Show Cause* and the *Second Order to Show Cause*, Respondents were again warned that entry of a default judgment could result in the assessment of the combined total of the alleged underpayments of wages and fringe benefits and Respondents could also be denied the award of any contracts with the United States government for a period of three (3) years from the publication date of the Comptroller General's debarment list containing Respondents' names. As of the date of this Order, Respondents have not filed an answer to Complainant's complaint nor responded to either *Order to Show Cause*.

Based on the foregoing, it is hereby **ORDERED** that:

1. Default judgment is entered against Respondents;
2. The allegations in Complainant's complaint are adopted as my findings of fact;
3. Respondents are liable for \$41,347.44 in unpaid wages and fringe benefits. To the extent the postal service or other federal departments, agencies or entities are in or become in possession of funds otherwise payable to Respondent, they shall turn over such funds up to the amount due under this Order to the United States Department of Labor, Wage and Hour Division;
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.

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).