



Issue Date: 07 January 2019

Case No.: 2018-SCA-00013

In the Matter of:

FRONTLINE SECURITY SERVICES, LLC

and

DEVONNE EDWARDS,

Respondents.

With respect to U.S. Department of Homeland Security/Federal Protective Service/Social Security Administration contract numbers HSHQEC-11-D00001, -12-D-00007, -12-D-00014, -13-D-00010, -14-D-00001, -14-D-0004, -14-D-0005, and SS00-14-61018.

ORDER OF DEFAULT JUDGMENT

This matter arises pursuant to a Complaint filed on May 29, 2018 by the Regional Solicitor of Labor on behalf of the Administrator, Wage and Hour Division (“WHD” or “Plaintiff”) under the McNamara-O’Hara Service Contract Act of 1965 (“SCA”), as amended, and the implementing regulations at 29 C.F.R. Part 4. (“Administrator’s Complaint”).¹ The procedural regulations for enforcement proceedings under the SCA are found at 29 C.F.R. Part 6, Subpart B.

Background

On June 6, 2018, I issued a *Notice of Docketing* (“Notice”), notifying Respondents that the matter had been docketed with the Office of Administrative Law Judges (“OALJ”), and that they had 30 days from service of the Complaint to file an Answer. 29 C.F.R. § 6.16(a). Respondents were also notified that failure to file an Answer may constitute an admission of all

¹ The U.S. Department of Homeland Security awarded Frontline Security Services, LLC contract numbers HSHQEC-11-D00001, -12-D-00007, -12-D-00014, -13-D-00010, -14-D-00001, -14-D-0004, -14-D-0005, and SS00-14-61018 to provide business support services, beginning March 31, 2011. The Complaint alleged that Respondents failed to pay the minimum wages and fringe benefits required, resulting in underpayments of \$2,073,032.77 to 208 employees. Plaintiff seeks findings that Respondents violated the SCA and are subject to ineligibility sanctions.

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. 29 C.F.R. § 6.16(b) and (c).

On July 23, 2018, having not received an Answer from Respondents, an *Order to Show Cause* was issued directing Respondents to state why a default judgment should not be entered in this matter granting the relief requested by the WHD. On August 20, 2018, Respondents filed a *Suggestion of Bankruptcy and Notice of Bankruptcy Filing*, indicating that Frontline Security Services, LLC has filed for Chapter 7 bankruptcy in the U.S. Bankruptcy Court for the District of Maryland. On October 4, 2018, I granted Respondents' request that the proceedings in OALJ Case No. 2018-SCA-00013 be stayed pending the resolution of related Chapter 7 bankruptcy proceedings. On October 15, 2018, the Administrator filed a motion for reconsideration of the stay on the ground that the "police power" exception to the automatic stay provision of the Bankruptcy Code, 11 U.S.C. § 362(b)(4) applies. On November 14, 2018, I granted the motion and issued *Order Vacating Order Holding Matter in Abeyance and Order Directing Filing of Answer to Complaint* ("Order"), based on the Administrative Review Board ("ARB") holding in *Rasputin, Inc.*, ARB No. 03-059, ALJ No. 1997-SCA-32 (ARB May 28, 2004) (2004 WL 1261220), that SCA proceedings to determine liability, back wage violations and eligibility for debarment are not subject to the automatic stay provision of the Bankruptcy Code.

Consequently, I vacated the stay of OALJ Case No. 2018-SCA-00013 and directed Respondents to file their Answer to the Administrator's Complaint within 30 days of the date of my November 14, 2018 Order. I also notified Respondents that "[b]ecause Respondents have already been twice notified of the consequences of failure to timely file an Answer, should they fail to timely file their Answer, default judgment granting the Administrator's prayer for relief will be granted *without further notice*."

Default Judgment

To date, Respondents have not filed an Answer to the Administrator's Complaint. Having been notified three times of the consequences of failure to do so, I find that entry of default judgment is warranted.

Pursuant to 29 C.F.R. § 6.16(b) and (c), failure to file an Answer constitutes an admission of all the allegations in the Complaint. Accordingly, I adopt as findings of fact all the allegations made in the Administrator's Complaint, and specifically find that Frontline Security Services, LLC failed to pay 208 service employees prevailing wages and/or fringe benefits as required in performance of the contracts in question under the SCA and its implementing regulations. I note, however, that according to the Administrator's Complaint, Frontline Security Services, LLC has already paid those unpaid wages and fringe benefits for the SCA underpayments in the amount of approximately \$2,073,032.77. Furthermore, the Administrator stated in the October 15, 2018 motion for reconsideration that that "the parties have resolved the claim for monetary judgment under the SCA and [the Administrator] only seeks debarment in this action. *See* Frontline Security Services, LLC, Bankruptcy Case No. 16-26249 (Bankr. MD 2016) and Devonne Edwards, Bankruptcy Case No. 18-16958 (Bankr. MD 2018)." *Administrator's Motion*

for Reconsideration at 3. See also *Administrator's Complaint* at 3, ¶ VIII. Based on the above, I find that the only issue before me is debarment.²

Debarment

The ARB stated, in pertinent party, in *Administrator, Wage and Hour Division, USDOL v. 5 Star Forestry, LLC*, ARB No. 14-021, ALJ No. 2013-SCA-4 (ARB June 24, 2015), that

Where the respondent has been found to have violated the SCA, the ALJ's jurisdiction with regard to debarment is limited under the SCA's implementing regulations to "includ[ing] in his/her decision an order as to whether the respondent is to be relieved from the ineligible list as provided in section 5(a) of the Act [41 U.S.C.A. § 6706], and, if relief is ordered, findings of the unusual circumstances, within the meaning of section 5(a) of the Act, which are the basis therefor." 29 C.F.R. § 6.19(b)(2). Within ninety days following an ALJ's final decision, or the ARB's final decision if the ALJ's decision is appealed, the Administrator is required to forward the names of any respondent found in violation of the SCA to the Comptroller General "unless such decision orders relief from the ineligible list because of unusual circumstances." 29 C.F.R. § 6.21(a). Beyond the foregoing, neither the ALJ nor the ARB has authority with regard to disbarment.

USDOL/OALJ Reporter at 8. Here, Respondents have defaulted by failing to file an Answer to the Administrator's Complaint. Accordingly, I find that the record provides no ground for relieving Respondents from the ineligible list as provided in section 5(a) of 41 U.S.C.A. § 6706.

ORDER

IT IS ORDERED that default judgment is entered against Respondents. **IT IS FURTHER ORDERED** that should this decision become final,³ within 90 days, the Administrator must forward the names of Respondents to the Comptroller General for inclusion in the ineligible list as violators of the SCA. 29 C.F.R. § 6.19(b)(2).

² It is noted that the Administrator's complaint says that "the Secretary reserves the right to update this amount [i.e., the amount that the Respondents' had already paid for previously unpaid wages and fringe benefits] to include any additional underpayments discovered and/or occurring up to the date of the hearing." *Administrator's Complaint at 3, ¶ VII*. The Administrator, however, has not filed any amendments to the complaint seeking an update to the amount owed by Respondents for SCA violations.

³ The regulation at 29 C.F.R. § 6.19(b)(1) provides that "[i]f any aggrieved party desires review of the [ALJ's] decision, a petition for review thereof shall be filed as provided in §6.20 of this title, and such decision and order shall be inoperative unless and until the Administrative Review Board issues an order affirming the decision."

STEPHEN R. HENLEY
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, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

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.

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). However, if you e-File your petition, only one copy need be uploaded.

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).