



Issue Date: 15 January 2019

Case No.: **2018-SOC-00002**

*In the Matter of:*

**MARK WHEELER,**  
**DISTRICT DIRECTOR, WASHINGTON DISTRICT OFFICE,**  
**OFFICE OF LABOR-MANAGEMENT STANDARDS,**  
**UNITED STATES DEPARTMENT OF LABOR,**  
*Complainant,*

v.

**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,**  
**LOCAL 3147,**  
*Respondent.*

**(CORRECTED DECISION AND ORDER)**

**RECOMMENDED DECISION AND ORDER**  
**GRANTING COMPLAINANT'S MOTION FOR ENTRY OF DEFAULT JUDGMENT**  
**AGAINST RESPONDENT<sup>1</sup>**

This case arises under Title VII of the Civil Service Reform Act of 1978 (“CSRA”), 5 U.S.C. §§ 7101, *et. seq.*; the Labor-Management Reporting and Disclosure Act (“LMRDA”), 29 U.S.C. §§ 401, *et. seq.*; the regulations issued pursuant to the LMDRA at 29 C.F.R. Part 403; and the Standards of Conduct Regulations (“SOC”) issued pursuant to the CSRA, promulgated at 29 C.F.R. Parts 457–459.

On January 12, 2018, Complainant’s counsel filed *Complaint* against Respondent alleging that Respondent violated its financial reporting requirements under the CSRA, LMRDA, and SOC by failing to file LM Reports for Fiscal Years 2015 and 2016.

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<sup>1</sup> Due to an administrative error, the *Decision and Order Granting Complainant’s Motion for Entry of Default Judgment Against Respondent*, issued on September 20, 2018, did not include the Notice of Opportunity to File Exceptions nor was it correctly titled as a “Recommended Decision and Order.” This instant Order is appended with the Notice of Opportunity to File Exception and is correctly titled as a “Recommended Decision and Order.” Accordingly, this instant Order, along with the case record, will be transferred to the Administrative Review Board. If Respondent asserts its right to file exceptions, then it must do so within **fifteen (15) days** of service of this *Recommended Corrected Decision and Order* upon the parties with the Administrative Review Board.

On February 9, 2018, this Court issued *Preliminary Order* directing parties to advise this Court of “three mutually agreeable hearing dates.”

On February 26, 2018, Complainant’s counsel filed *Response to Preliminary Order and Motion for Entry of Default Judgment* (“Motion”). Complainant’s Motion states that “[s]ervice of the complaint was completed upon Claudette Joyner, Local 3147 President; J. David Cox, AFGE National President; and David Borer, AFGE General Counsel, on January 12, 2018.” As of the filing date of the Motion, Respondent had yet to file an answer to the Complaint.

On March 20, 2018, this Court issued *Order to Show Cause Why a Default Judgment Should not be Entered Against Respondent* (“Order to Show Cause”).

On May 1, 2018, this Court issued *Order Granting Request to Hold in Abeyance any Decision Based on the Order to Show Cause Why a Default Judgment Should not be Entered Against Respondent*.

On June 5, 2018, Complainant’s counsel filed *Notice to the Office of Administrative Law Judges*, stating, in pertinent part:

As stated in the American Federation of Government (AFGE) National Office’s May 31, 2018 “Second Notice to the Office of Administrative Law Judges,” Local 3147’s (Respondent) amended Labor Organization Annual Reports, Form LM-4 were due on May 31, 2018. Respondent has failed to timely file the amended reports. Ms. Claudette Joyner, President of Local 3147, has indicated to Complainant that the amended reports will be filed by June 8, 2018. Complainant will notify this Office when it receives Respondent’s amended reports.

On June 25, 2018, Complainant’s counsel filed *Second Notice to the Office of Administrative Law Judges*, stating, in pertinent part:

As stated in Complainant’s June 5, 2018 “Notice to the Office of Administrative Law Judges,” Local 3147 (Respondent) failed to file its amended Labor Organization Annual Reports. Form LM-4 by the agreed upon date of May 31, 2018 and indicated it would file the reports by June 8, 2018. Respondent has failed to file the amended reports and has subsequently been unresponsive to Complainant’s attempts to communicate via phone and e-mail.

On July 12, 2018, this Court issued *Order Withdrawing Order to Hold in Abeyance any Decision Based on the Order to Show Cause Why a Default Judgment Should Not be Entered Against Respondent and Giving the Respondent Time to Respond to the Order to Show Cause Why a Default Judgment Should Not be Entered Against Respondent*. Respondent was ordered to “show cause within thirty (30) days from the date of this Order why a default judgment should not be entered in this case.” To date, Respondent has failed to file a response to the Order to Show Cause.

## ORDER

Accordingly, the Motion for Entry of Default Judgment against Respondent is **GRANTED**. Respondent is ordered to comply with the following:

1. To file LM-4 reports for fiscal years ending December 31, 2015 and December 31, 2016;
2. To cease and desist from violating Section 201(b) of the LMRDA, as incorporated into the CSRA by section 458.3 of the Regulations;
3. To inform its members of the course and outcome of this litigation by all means possible including posting copies of all documents filed in this matter in a prominent position on all bulletin boards used to display information about the Union, and mailing a letter to all Union members informing them of the filing of the complaint and all orders issued in this matter; and
4. To pay the costs of this action.

**SO ORDERED.**

**LARRY S. MERCK**

Administrative Law Judge

**NOTICE OF OPPORTUNITY TO FILE EXCEPTIONS:** On this date, pursuant to 29 C.F.R. § 458.88(b), I am transferring this Recommended Decision and Order, along with the case record, to the Administrative Review Board. Under 29 C.F.R. § 458.88(c), within **fifteen (15) days** of service of this decision upon the parties, the parties may file exceptions to my Recommended Decision and Order with the Administrative Review Board.

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](mailto:Boards-EFSR-Help@dol.gov)

If filing paper copies, you must file an original and four copies of the exceptions with the Board, together with one copy of this decision. If you e-File your exceptions, only one copy need be uploaded.

Title 29 C.F.R. § 458.89 discusses the necessary contents of exceptions to a Recommended Decision and Order and 29 C.F.R. § 458.90 discusses the requirements associated with briefs accompanying the exceptions. Under 29 C.F.R. § 458.91, absent timely exceptions, the Administrative Review Board may, at in its discretion, without comment, adopt the Recommended Decision and Order.