



**Issue Date: 28 October 2019**

**BALCA Case No.: 2019-TLC-00089**

**ETA Case Nos.: H-300-19235-772109**

*In the Matter of:*

**FLATLANDS,**

*Employer.*

### **ORDER OF DISMISSAL**

By letter filed on September 23, 2019, Flatlands (the “Employer”) filed an appeal in the above-captioned temporary alien labor certification matter to challenge the Certifying Officer’s (“CO”) issuance of the Notice of Deficiency (“NOD”) in the above-captioned H-2A temporary labor certification matter.

On October 2, 2019, the CO filed a Motion to Dismiss Appeal Filed by Debarred Entity or, in the Alternative, to Require the Employer to Perfect the Appeal. The CO contends Kellie Sutton of Placement Services Global filed the appeal as the agent for Employer, but prior to the filing, Ms. Sutton was debarred by the Office of Foreign Labor Certification. Consequently, the CO argues the appeal should be dismissed or for BALCA to direct Employer to perfect its appeal.

On October 4, 2019, the Board ordered Employer to, within fourteen (14) days of the order, inform the undersigned whether it wishes to continue the appeal pro se, or with a new representative.

The Board has not received a response from the Employer to either the CO’s Motion to Dismiss Appeal Filed by Debarred Entity or, in the Alternative, to Require the Employer to Perfect the Appeal or to the Board’s October 4, 2019 Order. Accordingly, the Board accepts as true that Kellie Sutton of Placement Services Global filed the appeal as the agent for Employer, but prior to the filing, Ms. Sutton was debarred by the Office of Foreign Labor Certification. Further, the Board finds the appeal filed in this matter is a nullity as Kellie Sutton of Placement Services Global had been debarred and that the Department of Labor will not process or accept for processing any application filed by Kellie Sutton of Placement Services Global for a period of two years beginning August 16, 2019, and ending on August 16, 2021.

20 C.F.R. § 655.164 provides that if an employer does not file a written request for review within 7 calendar days of the date of the Final Determination, then the CO's decision to deny or partially deny certification is final and the Department of Labor will not further consider that Application.

Accordingly, as the Board has not received a valid written request for review this matter is hereby **DISMISSED**.

**So ORDERED.**

LARRY W. PRICE  
Administrative Law Judge

LWP/ksw  
Newport News, Virginia