



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR FAILURE TO PROSECUTE: September 24, 2012

CBCA 2477

HEALTHY RESOURCES ENTERPRISE, INC.,

Appellant,

v.

DEPARTMENT OF THE INTERIOR,

Respondent.

J. Hatcher Graham of J. Hatcher Graham, P.C., Warner Robins, GA, counsel for Appellant.

Lisa A. Buechler, Office of the Solicitor, Department of the Interior, Lakewood, CO, counsel for Respondent.

Before Judges **HYATT**, **STEEL**, and **WALTERS**.

WALTERS, Board Judge.

ORDER

On August 9, 2012, the Board received a motion from appellant's counsel to withdraw as counsel based on appellant's alleged "failure to cooperate." By order dated August 14, 2012, the Board directed that, prior to the Board's permitting withdrawal, appellant's counsel join in the submission of a joint status report, then due as of August 27, 2012. The order further directed that, together with the joint status report, appellant was to submit a notice of appearance "from its Chief Operations Officer [whose name and address appellant's counsel had furnished with its motion]" or "other officer" who would "substitute as appellant's representative for appellant's counsel of record."

A copy of the Board's August 14 order had been sent by certified mail, return receipt requested, to appellant's counsel and to appellant's office address to the attention of its Chief Operations Officer, but the return receipt from appellant was never provided. On August 28, 2012, the Board received a status report filed solely by respondent's counsel, in which she stated that she was unable to make contact with appellant's counsel and was forced to submit the report alone. Upon receipt of respondent's status report, the Board itself attempted unsuccessfully to contact both appellant's counsel and appellant's Chief Operations Officer.

The Board, on August 28, 2012, ordered the appellant to show cause on or before September 14, 2012, as to why the instant appeal should not be dismissed with prejudice for appellant's failure to prosecute. Copies of the Board's order had been transmitted both to appellant (to the attention of its Chief Operations Officer) and to appellant's former counsel of record by certified mail, return receipt requested. In this instance, the Board did receive United States Postal Service delivery confirmation from both appellant and appellant's former counsel, but no response of any kind was filed by either to the Board's order to show cause. It appears that appellant does not intend to pursue its appeal before this Board at this time.

Decision

Accordingly, pursuant to Board Rule 12(c), the appeal hereby is **DISMISSED FOR FAILURE TO PROSECUTE**.

RICHARD C. WALTERS
Board Judge

We concur:

CATHERINE B. HYATT
Board Judge

CANDIDA S. STEEL
Board Judge