



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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DISMISSED FOR FAILURE TO PROSECUTE: February 07, 2014

CBCA 3531

MAHSHID NADIRY,

Appellant,

v.

BROADCASTING BOARD of GOVERNORS,

Respondent.

Mahshid Nadiry, pro se, Sherman Oaks, CA.

Elizabeth A. Parish and Kataryna L. DeLisle, Office of the General Counsel, Broadcasting Board of Governors, Washington, DC, counsel for Respondent.

Before Board Judges **McCANN**, **STEEL**, and **SHERIDAN**.

**SHERIDAN**, Board Judge.

Appellant, Mashid Nadiry, has failed to respond to any of the Board's orders, including two orders to show cause.

Background

Ms. Nadiry performed services as an "anchor/writer/reporter" pursuant to call orders issued under blanket purchase agreement (BPA) BBG39-E-13-0044. On May 1, 2013, the Broadcasting Board of Governors (BBG) issued call order BBG39-A-13-0434 to appellant in the amount of \$16,200 for services to be performed from May 1, 2013, through April 30, 2014.

On May 24, 2013, a BBG contracting officer issued a notice of termination to Ms. Nadiry terminating BBG39-E-13-0044 and BBG39-A-13-0434 for cause, effective the same day. The notice instructed appellant to submit a final payment invoice for services performed to the date of the termination, and the invoice Ms. Nadiry submitted was approved and paid. Ms. Nadiry appealed the termination for cause to the Board, where it was docketed on September 13, 2013.

Since docketing, the Board has issued several orders setting due dates that required a response from appellant. The Board has also attempted to reach appellant by telephone, leaving messages. Appellant has not responded to the orders or telephone messages. On December 19, 2013, the Board ordered Ms. Nadiry to show cause by no later than January 6, 2014, why this appeal should not be dismissed for failure to prosecute. Appellant did not respond to the Board's order.

On January 9, 2014, the Board sent, by United States Postal Service (USPS) certified mail, a second order to show cause to Ms. Nadiry, at her last known address, which she included in her notice of appeal. That order was also transmitted via facsimile and successfully emailed to Ms. Nadiry at the telephone number and email address she had provided in her notice of appeal. Ms. Nadiry was ordered to show cause by January 24, 2014, why the appeal should not be dismissed for failure to prosecute. The certified mail tracking indicates that the delivery of the certified mail was attempted on January 14, 2014, and that pick-up by appellant has not occurred. Neither the facsimile nor the email transmission was returned to the Board as undeliverable. Copies of the order were received by respondent's counsel by facsimile and email. Appellant did not respond to the Board's second order to show cause.

### Discussion

Appellant has failed to comply with any of the Board's orders since this matter was docketed.

Board Rule 33(c), Sanctions, provides:

When a party or its representative or attorney . . . fails to comply with any direction or order issued by the Board . . . , or engages in misconduct affecting the Board, its process, or its proceedings, the Board may make such orders as are just, including the imposition of appropriate sanctions. The sanctions may include:

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(6) Dismissing the case.

This rule makes clear that the Board has authority to dismiss a case for failure to prosecute. As this Board has held, this authority is reserved for situations where parties have repeatedly failed to comply with the tribunal's orders. *Medtek, Inc. v. Department of Veterans Affairs*, CBCA 1544, 09-2 BCA ¶ 34,285; see *Kadin Corp. v. United States*, 782 F.2d 175, 176 (Fed. Cir. 1986); *Rowe Inc. v. General Services Administration*, GSBCA 14136, 98-2 BCA ¶ 29,951, at 148,183; *Old Dominion Security, Inc. v. General Services Administration*, GSBCA 12974, 95-1 BCA ¶ 27,442 (1994).

Since the filing of this appeal, the Board has, through a variety of means and to no avail, attempted to reach appellant. Appellant has failed to respond to any of the Board's orders or otherwise prosecute the appeal.

Decision

This appeal is **DISMISSED FOR FAILURE TO PROSECUTE**.

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PATRICIA J. SHERIDAN  
Board Judge

We concur:

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R. ANTHONY McCANN  
Board Judge

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CANDIDA S. STEEL  
Board Judge