



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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MOTION TO DISMISS GRANTED: July 25, 2014

CBCA 3877

AFFILIATED WESTERN, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Mark A. Walsh of Saunders, Walsh & Beard, McKinney, TX, counsel for Appellant.

Jennifer L. Hedge, Office of Regional Counsel, Department of Veterans Affairs, Pittsburgh, PA, counsel for Respondent.

Before Board Judges **SOMERS**, **VERGILIO**, and **SHERIDAN**.

**SOMERS**, Board Judge.

The Department of Veterans Affairs (VA or the Government) awarded a contract to Affiliated Western, Inc. (AFI or appellant) to perform an upgrade to the medical file room at the Philadelphia VA Medical Center. On March 6, 2014, AFI submitted a claim to the contracting officer for costs allegedly resulting from VA-imposed delays. When the contracting officer failed to act on its claim, AFI, acting through its project manager, submitted a notice of appeal to the Board on May 29, 2014.

The VA has filed a motion to dismiss the appeal on the ground that we do not possess jurisdiction. Specifically, the VA points out that CBCA Rule 2(a)(1) requires that a notice of appeal be submitted in writing and “shall be signed by the appellant or by the appellant’s

attorney or authorized representative.” In addition, CBCA Rule 5 requires a corporation to be represented only by an attorney or a corporate officer. The VA says that AFI has failed to show that the project manager has the proper authority to file a notice of appeal on its behalf.

Upon receipt of the motion, AFI hired counsel to represent it. On June 27, 2014, counsel for AFI submitted a notice of appearance. In addition, AFI submitted “Appellant’s Amended Notice of Appeal,” which states that, as of the date of the amended notice, the contracting officer had not responded to the March 6, 2014, claim.

The VA is correct – the record does not include any evidence that the project manager could act on behalf of AFI as a corporate officer or as an attorney. In other words, there is no evidence that the project manager was authorized to submit the notice of appeal. *KK&L Administration Inc. v. Department of the Interior*, CBCA 2802, 12-2 BCA ¶ 35,180. Therefore, the motion to dismiss is granted.

The Clerk of the Board will docket the amended notice of appeal as a new appeal, and will issue a notice of docketing accordingly. The complaint and the notices of appearances filed under CBCA 3877 shall be deemed to have been filed under the new appeal. A new order on proceedings will be issued in due course.

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JERI KAYLENE SOMERS  
Board Judge

We concur:

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JOSEPH A. VERGILIO  
Board Judge

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PATRICIA J. SHERIDAN  
Board Judge