

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Paul Christian Pratapas)	
)	
Complainant,)	PCB No. 2023-014
)	(Enforcement)
v.)	
)	
Horizon Construction Group, Inc.)	
)	
Respondent.)	

AFFIDAVIT OF JON MICAH GOELLER

Jon Micah Goeller, being first duly sworn according to law, hereby deposes and states:

1. I am an adult resident of the State of Illinois and an attorney in good standing in the State of Illinois; I am one of the attorneys for Respondent Horizon Construction Group, Inc.
2. I give this affidavit to summarize certain undisputed facts and pertinent dates.
3. The docket for this mater shows the following filings:
 - a) On July 15, 2022, Paul Christian Pratapas, the Complainant appearing *pro se*, filed his initial Complaint.
 - b) On August 15, 2022, Horizon Construction Group, Inc., the Respondent, filed a Motion to Dismiss and a Request that the Board Not Accept the Complaint for Hearing.
 - c) On August 26, 2022, the Complainant filed a revised Motion to Modify his initial Complaint.

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d) On October 10, 2022, the Board granted the Respondent's Request that the Board Not Accept the Complaint for Hearing and granted Complainant's Motion to Modify the Complaint.

e) On August 26, 2022, Complainant filed his Motion to Modify Formal Complaint.

f) On December 16, 2022, the Respondent filed its Answer and Affirmative Defenses to the Amended Complaint.

g) On January 27, 2023, Respondent filed a Proposed Schedule and Discovery Order, which was entered by the Board as a Schedule Order on February 24, 2023.

h) The docket in this matter shows that Complainant never filed his own proposed Scheduling Order or commented or objected to Respondent's proposed Order.

4. The Complainant filed his Response to Motion to Motion for Dismissal with Prejudice, on June 29, 2023. Until that filing, the Complainant was not involved with his case since January 12, 2023, when he filed a copy of the Complainant's communication from the Illinois Attorney General's office.

5. The record shows that the Complainant missed the following series of disclosure deadlines and status conferences:

a) Complainant failed to appear at a duly noticed telephonic status conference on February 9, 2023, despite receiving an email reminder. Complainant never requested that the status conference be rescheduled or explained why he failed to appear.

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b) Complainant failed to meet his March 27, 2023, deadline to disclose fact witnesses, expert witnesses and provide expert reports, as established in the Discovery Order. No such disclosures have been made to date.

c) Complainant failed to appear at another duly noticed telephonic status conference on April 20, 2023, despite receiving an email reminder. Complainant never requested that the status conference be rescheduled or explained why he failed to appear.

d) The Scheduling Order shows that the deadline for Complainant to file and serve any Discovery Requests was May 15, 2023. Complainant did not file any discovery requests by that deadline, never asked for an extension or modification of that deadline and has filed nothing to date.

e) The Respondent served discovery requests on the Complainant on April 27, 2023, including Requests for Admission, Interrogatories, and Requests for Production of Documents (“Respondent’s Discovery Requests”).

f) The Complainant failed to meet the May 26, 2023, deadline to respond to the Respondent’s Discovery Requests, within 28 days of service, and still has not done so.

g) Complainant’s failure to respond or object to Respondent’s Requests for Admission means that the statements in the Requests for Admission are deemed “judicial admissions which cannot later be controverted by any contradictory evidence.” *Robertson v. Sky Chefs, Inc.*, 344 Ill. App 3d 196, 199 (1st Dist. 2003). Therefore, as a matter of law, the Respondent is deemed to have admitted all the statements in the Requests for Admission.

h) On June 29, 2023, Complainant failed to appear at the most recent duly noticed telephonic status conference despite receiving an email reminder. Complainant never requested that the status conference be rescheduled or explained why he failed to appear.

FURTHER AFFIANT SAYETH NOT.



Jon Micah Goeller

STATE OF ILLINOIS)
)
COUNTY OF _____) ss.

Subscribed and sworn to before me, a Notary Public in and for said County and State, this ___ day of July 2023.

Notary Public

My Commission Expires: _____

[SEAL]