



In the Matter of:

JOSHUA J. ISRAEL,

ARB CASE NO. 09-069

COMPLAINANT,

ALJ CASE NO. 2008-STA-001

v.

DATE: June 29, 2011

BRANRICH, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Joshua J. Israel, pro se, Shakopee, Minnesota

Before: E. Cooper Brown, Deputy Chief Administrative Appeals Judge; Joanne Royce, Administrative Appeals Judge; and Luis A. Corchado, Administrative Appeals Judge

ORDER GRANTING RECONSIDERATION

On February 27, 2009, an Administrative Law Judge issued a Recommended Decision and Order (R. D. & O.) dismissing Joshua Israel's case against BranRich, Inc. Israel appealed the R. D. & O. to the Administrative Review Board (ARB or Board). In June 2009, when the case was pending before the Board, Brandee L. Todd, Esq., of Chamblee & Ryan, BranRich's former counsel, informed the ARB that BranRich had ceased operations and completed the necessary administrative steps to conclude its business. See March 27, 2009 and June 22, 2009 correspondence to ARB. In light of BranRich's correspondence, the Board issued a Show Cause Order asking the parties why Israel's case should not be dismissed. The Board sought the

parties' input on the issue of the potential mootness of Israel's appeal in light of BranRich's legal status. Israel responded with a motion asking the ARB to award default and summary decision against BranRich because BranRich failed to file a response to Israel's petition for review. In his response to the Show Cause Order, Israel failed to address BranRich's status or provide the Board with any reason to continue his appeal against BranRich. Because the parties had failed to provide any information required by the Show Cause Order, the Board dismissed Israel's appeal on May 26, 2011.

On June 10, 2011, Israel asked the Board to reconsider its decision dismissing his appeal. In his motion for reconsideration, and unlike his initial response to the Show Cause Order, Israel focused directly on the issue of BranRich's corporate status. Specifically, Israel cited Texas law and provided case authority pertaining to the requirements necessary to establish that a Texas corporation may be deemed legally dissolved, including providing notice of intent to dissolve to all known claimants before articles of dissolution can be filed with the Texas Secretary of State,¹ represented that he had not been served with such notice, and noted that the record before the Board is devoid of any evidence that BranRich has complied with the dissolution requirements under Texas law.

The Board will reconsider a final decision if the movant demonstrates: (i) material differences in fact or law from that presented to a court of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the court's decision, (iii) a change in the law after the court's decision, and (iv) failure to consider material facts presented to the court before its decision.² Again, in contrast to his initial response to the Show Cause Order, Israel has presented sufficient information in his Motion for Reconsideration to alert the Board to an error it made. The Board reviewed BranRich's former counsel's statements about BranRich's corporate status and realized that there was no express representation at all about "dissolution." Israel's Motion for Reconsideration demonstrates that there is a sufficient question about BranRich's corporate status. Therefore, the Board has determined that dismissing Israel's appeal is unwarranted at this time.

¹ Israel cites Article 6.01 and 6.07 of the Texas, Articles of Dissolution.

² *Lewis v. U.S. Envtl. Prot. Agency*, ARB No. 04-117, ALJ Nos. 2003-CAA-006, -005, slip op. at 3 (ARB June 30, 2008); *Chelladurai v. Infinite Solutions, Inc.*, ARB No. 03-072, ALJ No. 2003-LCA-004, slip op. at 2 (ARB July 24, 2006); *Rockefeller v. U.S. Dep't of Energy*, ARB Nos. 03-048, -184; ALJ Nos. 2002-CAA-005, 2003-ERA-010, slip op. at 2 (ARB May 17, 2006).

CONCLUSION

For the reasons above, we **GRANT** Israel's request for reconsideration, **VACATE** the dismissal of his appeal, and hereby **REINSTATE** Israel's appeal.

SO ORDERED.

LUIS A. CORCHADO
Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge