

THIS CASE IS NOT A FINAL ORDER OF THE REVIEW COMMISSION AS IT IS  
PENDING COMMISSION REVIEW



United States of America  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION  
1120 20 STREET, N.W. 9<sup>TH</sup> FLOOR  
WASHINGTON, D.C. 20036-3457

SECRETARY OF LABOR,

Complainant,

v.

JERSEY GRANITE AND TILE, LLC, and GOLDEN  
STONE, LLC as its successor,

Respondent.

OSHRC DOCKET NO.: 24-0383

**ORDER DISMISSING NOTICE OF CONTEST**

On February 23, 2024, following an inspection of a worksite, the Occupational Safety and Health Administration (OSHA) issued a Citation and Notification of Penalty (“Citation”) to “New Jersey Granite and Tile, LLC, and its successors” (Jersey Granite), for alleged violations of the Occupational Safety and Health Act (the “Act”). The Citation resulted from OSHA inspection number 1707904 and alleges that Respondent committed serious violations of 29 C.F.R. § 1910.134(e)(1), 29 C.F.R. § 1910.178(a)(4), 29 C.F.R. § 1910.178(a)(5), 29 C.F.R. § 1910.1053(d)(1), 29 C.F.R. § 1053(f)(2)(i), 29 C.F.R. § 1053(j)(1), and 29 C.F.R. § 1910.1200(g)(1). The Citation proposes \$23,505 in penalties.

The Citation was mailed to “Jersey Granite and Tile, LLC, and its successors, 234 Boundary Road, Marlboro, NJ 07746.” Jersey Granite filed a handwritten letter with the Commission on March 6, 2024. The letter did not include a name or other contact information.

Still, it was treated as a Notice of Contest for docketing purposes. The matter was docketed as “Secretary of Labor, Complainant, v. Jersey Granite and Tile, LLC, Respondent.”

The March 6, 2024 letter indicated that the business had been sold to Golden Stone LLC (Golden Stone) on October 27, 2023. Attached to the letter was a document titled “Bill of Sale of Business” (Bill of Sale), which indicated that Golden Stone’s address was 2655 Philmont Avenue, Huntingdon Valley, PA 19006.

The Commission mailed A Notice of Docketing and Instructions to Employer (Docketing Notice) to the address for Golden Stone listed in the Bill of Sale, 2655 Philmont Avenue, Huntingdon Valley, PA 19006. The Docketing Notice was sent via first-class mail and has not been returned as undeliverable. The Docketing Notice included a postcard to be returned to the Commission to verify compliance with the employee posting requirements of Commission Rule 7 for the Citation and NOC. *See* 29 C.F.R. § 2200.7. No one returned the postcard as required.

The matter was assigned to Simplified Proceedings, and on April 10, 2024, a Simplified Proceeding Notice and Scheduling Order (Scheduling Order) was issued. The Scheduling Order set a prehearing conference call for May 20, 2024.

A few days before the call was to occur, an attorney, Maged Hanna, contacted the Commission and indicated he “previously” represented Jersey Granite. He did not file a Notice of Appearance. Still, he was aware of the Scheduling Order and the planned prehearing conference. He requested a delay of one week for personal reasons and to pursue a resolution.

The undersigned agreed to reschedule the conference to a date and time he could attend. Mr. Hanna was notified that his request to change the date and time was accepted and provided information on how to participate in the rescheduled call. The undersigned also issued an Order

Altering Date and Time for Prehearing Conference Call (May Order) on May 17, 2024. The May Order was mailed to Golden Stone at the Huntingdon Valley address from the Bill of Sale and posted in the Commission's e-filing system. The mailing was not returned as undeliverable.

At the time of the rescheduled call, Mr. Matthew Sullivan participated on behalf of the Secretary. Mr. Hanna did not dial in or otherwise contact the Commission. (June Order 1.) Two other individuals, Mr. Dermon and Mr. Vital, participated. *Id.* They stated they were appearing on behalf of Golden Stone. *Id.* Mr. Dermon and Mr. Vital are listed as members of Golden Stone and signed the Bill of Sale on Golden Stone's behalf. (3/6/24 Letter.)

During the conference, Mr. Dermon and Mr. Vital confirmed they received the Scheduling Order and the May Order. The undersigned directed them to the Commission's website to register with the e-filing system so the Commission would have their contact information and explained that they needed to communicate with the Secretary's counsel. The Secretary's counsel provided his contact information during the call. The undersigned explained that she would delay scheduling the hearing to allow them time to register with the e-filing system and discuss the matter with the Secretary's counsel. No one registered with the e-filing system or sought an exemption from the requirement. 29 C.F.R. § 2200.8(c).

Because the aggregate proposed penalty exceeded \$20,000 and there was a potential need for discovery, the matter was removed from Simplified Proceedings. (June Order 1.) The June Order directed the Secretary to file a Complaint and for Respondent to file an Answer within 21 days of being served with the Complaint. *Id.* at 2. *See also* 29 CFR § 2200.34(b). The June Order was mailed to the Huntingdon Valley, PA address via first-class mail and posted to the e-filing system. The mailing has not been returned and is presumed delivered.

The Secretary then filed her Complaint on June 27, 2024. In the Complaint, the Secretary amended the caption of this matter to “Jersey Granite and Tile, LLC and Golden Stone, LLC, as its Successor.” According to the Complaint, the caption was amended to reflect that Golden Stone now owns the worksite where the hazards were observed. (Compl. 2.) To date, no one has filed an Answer.

On July 29, 2024, the undersigned issued the First Order to Show Cause Why Notice of Contest Should Not Be Dismissed (First Show Cause). A copy of the Complaint was attached to the First Show Cause to simplify the process for responding. The First Show Cause was sent via first-class mail to the Huntingdon address and uploaded to the Commission’s e-filing system. It has not been returned as undeliverable. It required a response by August 16, 2024. No response has been received.

On August 19, 2024, the undersigned issued the Second Order to Show Cause Why Notice of Contest Should Not Be Dismissed (Second Show Cause). Like the First Show Cause Order, it included a copy of the Complaint. It was sent via first-class and certified mail to the Huntingdon Valley, PA address. It was also uploaded to the Commission’s e-filing system. The first-class mailing was not returned, but the certified mailing was returned as undeliverable.

The March 6, 2024 letter did not include any address. The only address in the filing was in the Bill of Sale. No one has provided the Commission with basic contact information since then. Commission Rule 8(c), 29 C.F.R. § 2200.8 (requiring registering with the e-filing system unless an exception is sought and approved); Commission Rule, 29 C.F.R. § 2200.6 (requiring the provision of contact information with every filing). No one provided the names of appropriate contact people, a current address, telephone number, or email. *Id.* Commission Rule 6 requires

any document, including Notices of Contest, to include the name, current address, telephone number, and email of the party submitting the document. *Id.* It also requires prompt notification of any change in contact information. *Id.*

Because Respondent has chosen to proceed self-represented, the undersigned and Commission staff made further attempts to locate Respondent despite the incomplete and limited contact information provided.<sup>1</sup> A member of the Commission's staff conducted a Google search to try to find another address for Respondent. It appeared that the address for the worksite was still valid. With that information, a Third Order to Show Cause was sent to that address (234 Boundary Road #4, Marlboro, NJ 07746). This Marlboro, New Jersey address is also identified as Jersey Granite's address in the Bill of Sale. The Third Order to Show Cause was also sent to the attorney, who indicated that he previously represented Jersey Granite (Mr. Hanna).

In addition to the mailed copies, a courtesy copy was sent to an email address the Secretary's counsel had in his file for Golden Stone. As with every other order, the Third Order to Show Cause was also uploaded to the Commission's e-filing system.

The email was not returned as undeliverable, but no response was received. The certified mailing to Mr. Hanna was delivered on October 10, 2024. The certified mailing to the Marlboro, NJ address was returned as undeliverable.

Another email was sent to Golden Stone and Mr. Hanna on November 21, 2024. The email stated that no response to the Third Order to Show Cause or the Complaint had been received. It

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<sup>1</sup> As noted, the Citation named "Jersey Granite and Tile LLC, and its successors." The Complaint named "Jersey Granite and Tile, LLC, and Golden Stone, LLC, as its successor." References in this Order to Respondent refer to the entities named in the Complaint, Jersey Granite and Tile, LLC, and Golden Stone, LLC, as its successor.

provided a courtesy copy of the Third Show Cause Order and explained in detail how to respond. It included a link to the relevant section of the Guide to Commission Proceedings, posted on oshrc.gov, the Commission's website. The email indicated that a response was required and the failure to respond would result in the Citation becoming final and penalties of \$23,505 being assessed. The emails were not returned as undeliverable. No response was received via email.

Finally, a Fourth Order to Show Cause was issued on December 2, 2024. It was sent to Respondent multiple ways. Certified mailings were sent to the Marlboro, NJ, location and to Mr. Hanna. In addition, copies were sent via first-class mail to Marlboro, NJ, and via email to Golden Stone. The Order was also posted to the Commission's e-file system. The Fourth Order to Show Cause required a response by December 19, 2024.

Neither the email nor the first-class mailing was returned as undeliverable. The certified mailing to Mr. Hanna was received. The certified mailing to the Marlboro, NJ, address was not delivered.

No one has responded to any of the Orders to Show Cause.

### *DISCUSSION*

The Scheduling Order explained that all parties must comply with the Commission's Rules of Procedure. It explained how to find those rules, as well as the Commission's Guide to Simplified Proceedings (Guide). The Scheduling Order explained that any party unfamiliar with Commission proceedings must review the rules, the Guide, and the Commission's instructions for electronic filing.

The Scheduling Order explained that Respondent could elect to be represented in these proceedings. It also noted that any changes in contact information "must promptly be

communicated in writing.” Respondent was explicitly warned that “Failing to furnish contact information or communicate in writing a change in contact information shall be considered a waiver of notice and service.”

Each Show Cause Order warned Respondent, in bold all caps, that not responding would “result in all violations being affirmed and all proposed penalties being assessed against Respondent without a hearing.” Each Show Cause Order included detailed instructions for responding, either through the Commission’s E-Filing system or via mail, if registering for e-filing presented an undue hardship.

Respondent failed to return the verification postcard, file an Answer, comply with Commission Rule 35, provide contact information, register with the e-file system or seek an exemption, respond to any of the Show Cause Orders, or outreach from the Commission’s staff.

The Commission expects a business to maintain “orderly procedures for handling important documents.” *Louisiana-Pacific Corp.*, 13 BNA OSHC 2020, 2021 (No. 86-1266, 1989) (citations omitted). A judge has very broad discretion in imposing sanctions for noncompliance with the judge’s orders or the Commission’s Rules of Procedure. *See Sealtite Corp.*, 15 BNA OSHC 1130, 1134 (No. 88-1431, 1991). The Commission has long held that dismissal is too harsh a sanction for failure to comply with certain prehearing orders unless the record shows contumacious conduct by the noncomplying party, prejudice to the opposing party, or a pattern of disregard for Commission proceedings. *See Architectural Glass & Metal Co.*, 19 BNA OSHC 1546, 1547 (No. 00-0389, 2001).

Golden Stone has not followed up on or pursued the Notice of Contest. It was specifically directed to comply with Commission Rule 6(a)’s fundamental requirement to provide contact

information and has failed to do so. It has engaged in a pattern of disregard that warrants dismissal. Similarly, Jersey Stone has not pursued the matter after filing its March 6, 2024 letter. Its lawyer has been repeatedly contacted and served with Show Cause Orders but has not responded.

Under these circumstances, the undersigned finds that any attempt to pursue this matter has been abandoned, and dismissal is warranted. *See Ark. Abatement Servs., Inc.*, 17 BNA OSHC 1163, 1164-65 (No. 94-2210, 1995) (“[W]here a party’s default indicates disrespect for, or indifference to, Commission proceedings, the party’s claims properly are dismissed.”); *Sealtite Corp.*, 15 BNA OSHC 1130, 1134 (88-1431, 1991) (contumacious conduct established where party engaged in a “consistent pattern” of failure to respond to judge’s orders).

Respondent has failed to engage in the litigation process. It has been given multiple opportunities and plenty of time to comply with the Commission’s Rules and the undersigned’s orders. Respondent has not taken advantage of the multiple opportunities to advise the Commission that it has not abandoned its case. *See Twin Pines Constr. Inc./Teles Constr.*, 24 BNA OSHC 1500, 1504 (No. 12-1328, 2012) (finding no worthwhile purpose in proceeding to a hearing where a party has abandoned the case).

Respondent is found to be in DEFAULT and its Notice of Contest is DISMISSED. The violations and penalties alleged in the Citation issued on February 23, 2024, because of OSHA Inspection Number 1707904, are AFFIRMED in their entirety, and penalties of \$23,505 are ASSESSED.

SO ORDERED.

Dated: January 13, 2025  
Washington, DC

*/s/ Heather Daly*  
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Heather Daly  
Judge, OSHRC