

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR  
AND INDUSTRIAL RELATIONS,

Complainant,

v.

AMERICAN HONOLULU CONSTRUC-  
TION, LTD.,

Respondent.

CASE NO. OSH 2008-2

ORDER NO. 285

ORDER GRANTING  
COMPLAINANT DIRECTOR,  
DEPARTMENT OF LABOR AND  
INDUSTRIAL RELATIONS'  
MOTION TO COMPEL DISCOVERY  
RESPONSES FROM RESPONDENT  
AMERICAN HONOLULU  
CONSTRUCTION, LTD., FILED ON  
APRIL 22, 2008

ORDER GRANTING COMPLAINANT DIRECTOR,  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS'  
MOTION TO COMPEL DISCOVERY RESPONSES FROM RESPONDENT  
AMERICAN HONOLULU CONSTRUCTION, LTD., FILED ON APRIL 22, 2008

On April 23, 2008, Complainant DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS (DIRECTOR), by and through his counsel, filed a Motion to Compel Discovery Responses from Respondent American Honolulu Construction, Ltd. with the Hawaii Labor Relations Board (Board). Complainant alleged that on March 14, 2008, it served Respondent AMERICAN HONOLULU CONSTRUCTION, LTD. (AMERICAN) with two discovery requests, a First Request for Answers to Interrogatories and a First Request for Production of Documents, and notified AMERICAN that it had 30 days to respond to the request or until April 14, 2008. The DIRECTOR contended that AMERICAN did not respond to the DIRECTOR's requests for discovery.

The Board held a hearing on Complainant's motion on May 8, 2008 which was attended by Deputy Attorney General J. Gerard Lam for the DIRECTOR and Respondent's representative, Richard Cheng (Cheng). Upon convening the hearing, Complainant's counsel represented that Respondent agreed in prior discussions that no responses had been provided to the DIRECTOR's discovery requests and that Respondent would provide its responses in 30 days or June 9, 2008.

On June 12, 2008, the DIRECTOR filed a request with the Board for a hearing on his motion to compel discovery responses since Respondent did not provide any responses to the discovery requests on June 9, 2008.

The Board conducted a hearing on Complainant's motion to compel on June 25, 2008 and Complainant's counsel appeared for the hearing but Respondent's representative did not appear before the Board. The Board noted that it had received a message from Respondent's representative on June 24, 2008 indicating that he would not come to the hearing and would pay the penalty. Complainant's counsel confirmed that he had spoken to Cheng who indicated that he would pay the fine and withdraw the contest. Complainant requested the Board to issue an order compelling discovery by July 2, 2008 and that he would ask for sanctions if the matter was not withdrawn.

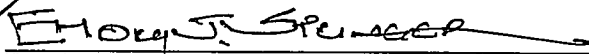
Based on a review of the record and the arguments presented, the Board finds that Respondent failed to respond to Complainant's discovery requests on April 14, 2008, which was extended to June 9, 2008. Thus, the Board grants the instant motion compelling responses to Complainant's discovery requests. Respondent is directed to respond to the requests or withdraw the instant contest by July 2, 2008.

DATED: Honolulu, Hawaii, June 26, 2008.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



EMORY J. SPRINGER, Member



SARAH R. HIRAKAMI, Member

Copies sent to:

J. Gerard Lam, Deputy Attorney General  
Richard Cheng