

UNITED STATES OF AMERICA OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION One Lafayette Centre 1120 20th Street, N.W. - 9th Floor Washington, DC 20036-3419

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SECRETARY OF LABOR,

Complainant,

v.

OSHRC Docket No. 95-1062

INDUSTRIAL STEEL ENTERPRISES, INC.,

Respondent.

ORDER

In its letter, which we construe as a motion to set aside sanctions under Commission Rule 41(b), Industrial Steel Enterprises, Inc. ("Industrial"), appearing pro se, asserts that it failed to file an answer, or respond to the show cause order issued by Chief Administrative Law Judge Irving Sommer,¹ because, inter alia, it thought, based on discussions with the Secretary's counsel, that the case would be resolved informally. It appears from the record that this case was in a special settlement-oriented program and efforts were being made to amicably resolve the case without full litigation. Industrial's account of what the Secretary's counsel told it, taken together with the case's settlement status and the Secretary's failure to ask for sanctions or to take exception to Industrial's letter, suggest that the best course is to set aside the sanctions under Commission Rule 41(b) and remand this case to the judge for further proceedings concerning Industrial's failure to file an answer or respond to the order to show cause. We hope that the Secretary and Industrial can mutually resolve this case, which involves significant proposed penalties of \$23,000, thus obviating a need for a hearing before the judge. Accordingly, the case is remanded to the judge for further proceedings.

Stuart E. Weisberg Stuart E. Weisberg Chairman Velma Montaga Velma Montoya

Commissioner

Dated: <u>March 8, 1996</u>

¹The language in the show cause orders issued by the Chief Administrative Law Judge has since been revised to explain, in plain English, what is required and the consequences of failing to act.

1996 OSHRC No. 11



United States of America OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION 1120 20th Street, N.W., Ninth Floor Washington, DC 20036-3419

Office of Executive Secretary SECRETARY OF LABOR, Complainant, v. Docket No. 95-1062 INDUSTRIAL STEEL ENTERPRISES, INC., Respondent.

NOTICE OF REMAND ORDER

The attached Order of Remand by the Occupational Safety and Health Review Commission was issued on March 8, 1996.

FOR THE COMMISSION

Ray H. Darling, Jr. Executive Secretary

March 8, 1996 Date

Phone: (202) 606-5100 Fax: (202) 606-5050

Docket No. 95-1062

NOTICE IS GIVEN TO THE FOLLOWING:

Daniel J. Mick, Esq. Counsel for Regional Trial Litigation Office of the Solicitor, U.S. DOL Room S4004 200 Constitution Ave., N.W. Washington, D.C. 20210

Patricia Rodenhausen, Esq. Regional Solicitor Office of the Solicitor, U.S. DOL 201 Varick St., Room 707 New York, NY 10014

James J. Meilinger, Jr., President Industrial Steel Enterpises, Inc. 335 Moorestown Drive Bath, PA 18014

Irving Sommer Administrative Law Judge Occupational Safety and Health Review Commission One Lafayette Centre 1120 20th Street, Suite 990 Washington, D.C. 20036-3419



United States of America OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION 1120 20th Street, N.W., Ninth Floor Washington, DC 20036-3419

SECRETARY OF LABOR Complainant,

v.

Phone: (202) 606-5100 Fax: (202) 606-5050

INDUSTRIAL STEEL ENTERPRISES, INC. Respondent.

OSHRC DOCKET NO. 95-1062

NOTICE OF DOCKETING OF ADMINISTRATIVE LAW JUDGE'S DECISION

The Administrative Law Judge's Report in the above referenced case was docketed with the Commission on January 19, 1996. The decision of the Judge will become a final order of the Commission on February 20, 1996 unless a Commission member directs review of the decision on or before that date. ANY PARTY DESIRING REVIEW OF THE JUDGE'S DECISION BY THE COMMISSION MUST FILE A PETITION FOR DISCRETIONARY REVIEW. Any such petition should be received by the Executive Secretary on or before February 8, 1996 in order to permit sufficient time for its review. See Commission Rule 91, 29 C.F.R. 2200.91.

All further pleadings or communications regarding this case shall be addressed to:

Executive Secretary Occupational Safety and Health Review Commission 1120 20th St. N.W., Suite 980 Washington, D.C. 20036-3419

Petitioning parties shall also mail a copy to:

Daniel J. Mick, Esq. Counsel for Regional Trial Litigation Office of the Solicitor, U.S. DOL Room S4004 200 Constitution Avenue, N.W. Washington, D.C. 20210

If a Direction for Review is issued by the Commission, then the Counsel for Regional Trial Litigation will represent the Department of Labor. Any party having questions about review rights may contact the Commission's Executive Secretary or call (202) 606-5400.

FOR THE COMMISSION Rav H/ Darling, Jr. Executive Secretary

Date: January 19, 1996

DOCKET NO. 95-1062

NOTICE IS GIVEN TO THE FOLLOWING:

Patricia Rodenhausen, Esq. Regional Solicitor Office of the Solicitor, U.S. DOL 201 Varick, Room 707 New York, NY 10014

Robert W. Parente, Vice-President Industrial Steel Enterprises, Inc. 4100 Freemansburg Avenue Easton, PA 18012

Irving Sommer Chief Administrative Law Judge Occupational Safety and Health Review Commission One Lafayette Centre 1120 20th St. N.W., Suite 990 Washington, DC 20036 3419

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United States of America OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Secretary of Labor, Complainant, V. INDUSTRIAL STEEL ENTERPRISES, INC. Respondent.

OSHRC DOCKET NO. 95-1062

ORDER

On 10/20/95 the undersigned issued an ORDER TO SHOW CAUSE to the Respondent as to why his Notice of Contest should not be dismissed for failure to file an answer to the complaint as required by the Commission Rules of Procedure. The Respondent failed to reply to the ORDER. His actions demonstrate either that he has abandoned the case or treats the Rules of Procedure of the Commission with disdain. This cannot be countenanced as it seriously impedes the administration of justice.

Accordingly, the Notice of Contest filed by the Respondent is dismissed. The Secretary's citation(s) and proposed penalties are AFFIRMED in all respects.

IRVING SOMMER Chief Judge

DATE: **JAN 17 1996** Washington, D.C.