

STATE OF SOUTH CAROLINA) BEFORE THE SOUTH CAROLINA
) PROCUREMENT REVIEW PANEL
COUNTY OF RICHLAND) CASE NO. 1992-10

IN RE: PROTEST OF EXECUTONE, INC.)
) APPEAL BY EXECUTONE, INC.) O R D E R
)

This case came before the South Carolina Procurement Review Panel for hearing on June 23, 1992. At the call of the case, the Protestant Executone, Inc. failed to appear. The case was accordingly dismissed.

Southeastern Telecom, Inc., whose bid Executone challenged, moved for its attorneys' fees and costs on the grounds that Executone's failure to appear and prosecute its case or at least to notify the parties and the Panel of its withdrawal in advance of the hearing indicates "callous disregard" for the procurement appeals process.

Although the Panel agrees with Southeastern's characterization of Executone's conduct, the Panel believes that it lacks authority under the current law to award attorneys' fees and costs to Southeastern.

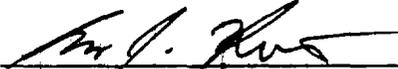
Section 11-35-4210(7) authorizes the Panel to award costs and other relief to "a protestant" who "contends that it should have been awarded the contract under a solicitation but [was] not." In this case, Southeastern is not the protestant contending that award of the contract should go to it. Southeastern is the intended recipient of the contract who is challenged by the protestant Executone.

The Panel in the past has awarded attorneys' fees and costs only if other remedies, such as award of the contract, were not available or appropriate. In this case, Southeastern will receive award of the contract in question.

Because the Panel lacks authority to award attorneys' fees and costs in this case and because Southeastern has another remedy, Southeastern's motion for costs and attorneys' fees is denied.

IT IS SO ORDERED.

SOUTH CAROLINA PROCUREMENT
REVIEW PANEL



Gus J. Roberts
Chairman

Columbia, S.C.
July 2, 1992