

# South Carolina Procurement Review Panel

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July 2, 1992

Mr. Jackson M. Zorn  
McKay Zorn & Associates, P.A.  
P. O. Box 10635  
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Re: Case No. 1992-12 Appeal by McKay Zorn  
Ruscon v. Citadel Contract Controversy

Dear Mr. Zorn:

The Panel is in receipt of your June 3, 1992, letter in which McKay Zorn appeals from the April 6, 1992, decision of the State Engineer resolving a contract controversy between the Citadel and Ruscon Construction Company.

Please be advised that, under the current law, only a contractor has the right to appeal a decision rendered by a Chief Procurement Officer in a contract controversy case. Specifically, section 11-35-4230(5)(1986) provides:

[T]he decision under subsection (3) of this section shall be final and conclusive, unless fraudulent, or unless the contractor requests a review, in writing, setting forth the reasons, to the Procurement Review Panel within ten days of the decision. The contractor may also request an interview with the Panel.

In this case, the contract in controversy is between Ruscon and the Citadel, who were the only parties before the State Engineer. Although McKay Zorn apparently also has a contract with the Citadel to perform services on this project, that contract is not the one disputed before the State Engineer.

Mr. Jackson Zorn  
July 2, 1992  
Page Two

Therefore, the Panel finds that McKay Zorn is not "the contractor" with the right of appeal in this case. That entity is Ruscon, which has not appealed the decision of the State Engineer.

Until such time as the State Engineer issues a decision arising from McKay Zorn's contract with the Citadel, McKay Zorn lacks standing to appeal to the Panel.

Therefore, the Panel is required to, and hereby does, dismiss the June 3, 1992 appeal of McKay Zorn.

Very truly yours,

  
Gus J. Roberts  
Chairman

cc: Helen T. Zeigler, Esq.  
Marion Dorsey