

AZTECH CONTRACTING, INC.

CONTRACT NO. V508C-390

VABCA-5913

CONTRACT NO. V508C-392

VABCA-5914

VA MEDICAL CENTER  
ATLANTA (DECATUR), GEORGIA

*D. Lee Roberts, Jr., Esq.*, Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC, Atlanta, Georgia, for the Appellant.

*Rheba C. Heggs, Esq.*, Trial Attorney; *Charlma J. Quarles, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

### ORDER OF DISMISSAL

1. On October 16, 2000, the Board issued an ORDER TO SHOW CAUSE why these appeals should not be dismissed under Rule 31 for failure to prosecute and to respond to the Government's MOTION TO DISMISS FOR FAILURE TO PROSECUTE by November 17, 2000.
2. The basis for the Government's MOTION is that the Appellant has demonstrated a consistent pattern of ingoring the Board's ORDERS and that Appellant has completely failed to respond to the Government's discovery requests.
3. The Board has broad discretion in determining whether to grant a motion based on a party's failure to prosecute. Appellant has consistently ignored the Board's ORDERS since these appeals were docketed in April 1999. During the course of proceedings in these appeals, the Board has had to issue two ORDERS TO SHOW CAUSE, cancel a scheduled hearing, reschedule prehearing activities several times and establish and reestablish numerous other deadlines, all because Appellant has disregarded the Board's ORDERS.
4. As of the date of this ORDER, Appellant has not responded to the ORDER TO SHOW CAUSE. The Board's patience is at an end. Accordingly, the

Government's MOTION is **GRANTED** and the appeals of AZTECH Contracting, Inc., VABCA-5913 and VABCA-5914 are hereby **DISMISSED WITH PREJUDICE** pursuant to Rule 31.

**IT IS SO ORDERED**

DATE: **November 21, 2000**

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RICHARD W. KREMPASKY  
Administrative Judge  
Panel Chairman

We Concur:

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MORRIS PULLARA, JR.  
Administrative Judge

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WILLIAM E. THOMAS, JR.  
Administrative Judge