

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. Environmental  
Protection Agency-Region 2  
2016 MAR 22 AM 7:50  
REGIONAL HEARING  
CLERK

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In the Matter of  
A.B.E.F. Development Corp. and  
Herminio Cotto Construction, Inc.  
Respondents  
Docket No. CWA-02-2010-3465  
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ORDER TO SHOW CAUSE

The Undersigned issued an **Order In Response to Respondent's Request for Extension of Time to Respond** dated October 26, 2015 extending the parties' time to respond to an **Order Requiring Respondent A.B.E.F. Development Corporation to File Answer and Requiring Complainant to File Motions for Default**, dated August 31, 2015.

The October 26<sup>th</sup> **Order** provided as follows:

ORDER

The date by which Respondent ABEF must answer the Complaint is hereby extended through November 9, 2015. If Respondents' representative intends to file an Answer on behalf of Respondent Cotto, a motion to vacate the standing *Order on Default as to Liability* against Cotto, together with an Answer on Cotto's behalf, must be filed by November 9, 2015

If Respondent ABEF does not file an Answer by that date, it is further ordered that the Complainant file a Motion for Default as to Liability and Penalty against Respondent ABEF no later than November 30, 2015. Failure to file such a motion may result in the Complaint being dismissed against ABEF with prejudice. 40 C.F.R. § 22.17(a).

Regardless of whether ABEF files an Answer, if a motion to vacate the *Default Order as to Liability* against Respondent Cotto, together with an Answer on Cotto's behalf, is not filed by November 9, 2015, it is further ORDERED that Complainant file a Motion for Default as to Penalty against Respondent Cotto no later than November 30, 2015. Failure to file such a Motion for Default as to Penalty may result in the Complaint being dismissed against Cotto with prejudice. 40 C.F.R. § 22.17(a).

The Respondents shall file its response to the motion(s) for default, if any, within fifteen (15) days of service of the Complainant's motion(s).

This Order is effective as of October 22, 2015.

To date, neither Complainant nor Respondent have complied with the directives set forth in the October 26<sup>th</sup> **Order**. In light of the above, the Undersigned issues the following Order:

## **ORDER**

**The Complainant must file an motion to show cause why the Complaint against both parties should not be dismissed with prejudice due to a failure by the Complainant to proceed in this matter in a timely manner.**

**In the alternative, the parties are given a final extension of time to comply with the terms of the October 26<sup>th</sup> Order as follows:**

**The date by which Respondent ABEF must answer the Complaint is hereby extended through April 15, 2016. If Respondents' representative**

intends to file an Answer on behalf of Respondent Cotto, a motion to vacate the standing *Order on Default as to Liability* against Cotto, together with an Answer on Cotto's behalf, must be filed by April 15, 2016.

If Respondent ABEF does not file an Answer by that date, it is further ordered that the Complainant file a Motion for Default as to Liability and Penalty against Respondent ABEF no later than April 29, 2016. Failure to file such a motion may result in the Complaint being dismissed against ABEF with prejudice. 40 C.F.R. § 22.17(a).

Regardless of whether ABEF files an Answer, if a motion to vacate the *Default Order as to Liability* against Respondent Cotto, together with an Answer on Cotto's behalf, is not filed by April 15, 2016, it is further ORDERED that Complainant file a Motion for Default as to Penalty against Respondent Cotto no later than April 29, 2016. Failure to file such a Motion for Default as to Penalty may result in the Complaint being dismissed against Cotto with prejudice. 40 C.F.R. § 22.17(a).

The Respondents shall file its response to the motion(s) for default, if any, within fifteen (15) days of service of the Complainant's motion(s).

Date: March 21, 2016



Helen Ferrara  
Presiding Officer

## CERTIFICATE OF SERVICE

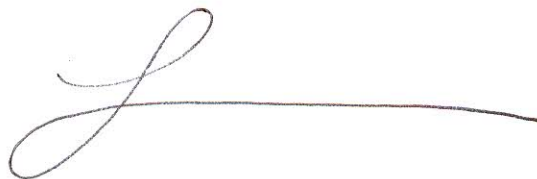
I hereby certify that the **Order to Show Cause** by Regional Judicial Officer Helen Ferrara in the matter of **A.B.E.F Development Corp. and Herminio Cotto Construction, Inc., Docket No. CWA-02-2010-3465** was served on the parties as indicated below:

First Class Mail -

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Lydia Barbagallo  
Legal Administrative Specialist  
USEPA – Region II

Dated: March 22, 2016