

improper purpose, such as to harass, limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or of the litigation.

- (2) If a request for review, protest, pleading, motion or other document is signed in violation of this subsection on or after appeal to the Procurement Review Panel, the Procurement Review, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the protest, pleading, motion, or other paper, including a reasonable attorney's fee.

Benson contends that Pulliam's appeal is frivolous and was brought for the sole purpose of negotiating a settlement after losing out on the award. However, Pulliam has raised an issue that is open to interpretation and has not previously been decided by the Panel. We do not believe Pulliam intended to delay the contract as evidenced by its willingness to forego the stay of the award usually imposed after an appeal to the Panel. Further, it does not seem reasonable that Pulliam would be intentionally trying to harass or increase costs when Pulliam itself was paying counsel. We understand Benson's frustration at having to expend funds to hire an attorney on a case that was ultimately withdrawn. However, the Panel's authority is limited to S.C. Code Ann. §11-35-4330.

The Panel has sanctioned parties in the past, but it has been in cases where the party appealed contrary to clearly established law and Panel precedent. See for example, In re: Protest of New Way Cleaning Service; Appeal by New-Way Cleaning Service, Case No. 1994-19 (appeal after being denied an opportunity to change its bid after opening. New Way realized it had omitted one whole section of the Invitation for Bid requirements and sought to change it after all bids were opened); In re: Protest by MTC Service Maintenance; Appeal by MTC Service Maintenance (appealed termination of a contract which was terminated after the state discovered the contractor did not have the required license).

IT IS HEREBY ORDERED that this motion is **DISMISSED**.

AND IT IS SO ORDERED.

SOUTH CAROLINA PROCUREMENT REVIEW PANEL
BY ITS VICE CHAIRMAN:



Willie D. Franks

Columbia, South Carolina

July 27, 2006