

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

United States of America, Complainant vs. Nu Look Cleaners of
Pembroke Pines Inc., Respondent; 8 U.S.C. § 1324A Proceeding, Case No.
89100162.

**ORDER REJECTING ATTORNEY JOEL STEWART'S OFFER OF NOTICE OF WITHDRAWAL
FROM PROCEEDINGS**

In a document dated December 24, 1990, attorney Joel Stewart, who had previously filed a notice of entry of appearance on respondent's behalf dated April 26, 1989, offered ``a notice of withdrawal from the [instant] proceeding effective immediately.'' Although addressed to me (with courtesy copies to complainant's counsel and the chief administrative hearing officer), this document is expressly grounded on the assumption that the effect of the action by the chief administrative hearing officer on December 5, 1990, vacating my decision and order issued on November 5, 1990, was the dismissal of this proceeding. This same assumption appears to underline Mr. Stewart's action in addressing to the office of the chief administrative hearing officer (with courtesy copies to complainant's counsel and to me), over date of January 3, 1991, a request for attorney's fees. However, a letter to me from complainant's counsel dated December 20, 1990, takes the position that the effect of the chief administrative hearing officer's decision is to shift jurisdiction back to me.¹

I anticipate that the action of the chief administrative officer in connection with respondent's request for attorney's fees will involve a determination by him as to the effect of his action on December 5, 1990. Pending his resolution of this disputed issue, acceptance of Mr. Stewart's offer of notice of withdrawal as respondent's counsel would be inappropriate in view of the failure of the

¹In addition, Mr. Stewart's request for attorney's fees refers to time spent on December 27, 1990, in connection with a request by complainant for production of documents. Such a request must have proceeded on an assumption by complainant that the instant proceeding is still viable.

file to clearly disclose either respondent's present address, or the name, title, and address of anyone who now has the power to accept service on respondent's behalf. Thus, a letter to me from Mr. Stewart dated February 25, 1990, enclosed a letter dated February 26, 1990, from Mr. Alan Rubin, stating as follows:

To Whom It May Concern:

I was the Secretary of Nu-Look Cleaners, Inc., with corporate offices at 21336 West Dixie Highway, North Miami, Florida 33180.

The business entity known as Nu-Look Cleaners of Pembroke Pines, Inc., owned and operated a business known as Nu Look One Hour Cleaners at 9075 Taft Street, Pembroke Pines, Florida, but their entire interest was sold on April 30, 1989.

On August 15, 1989, I resigned my position as Secretary of the Corporation and I am no longer in the employ of Nu-Look Cleaners of Pembroke Pines, Inc., and am no longer in possession of any records pertaining to same.

The foregoing letter was my first information about either the alleged sale or Mr. Rubin's alleged resignation as secretary. So far as I am aware, until receiving courtesy copies of Mr. Stewart's letter, complainant's counsel had not received any such claims either. A document filed by Mr. Stewart and dated March 13, 1990, averred that on April 30, 1989, respondent had sold its interest in ``the business entity known as Nu Look Cleaners of Pembroke Pines with offices at 9075 Taft Street, Pembroke Pines, Florida 33024,' and that respondent is not presently doing business at that address. Also on March 13, 1990, Mr. Stewart filed with me a document stating that Mr. Rubin ``is no longer an employee or [officer] of respondent.' Mr. Stewart has failed to reply to my inquiries to him_by letter dated March 23, 1990, and April 19, 1990_for respondent's current address. Further, on April 27, 1990, Mr. Stewart filed a document which stated that as that date, 9075 Taft Street was the address of Jeffrey Claverie, the president of Nu-Look Cleaners of Pembroke Pines, Inc.; that the corporate secretary was Mr. Rubin, at the Dixie Highway address; that the Dixie Highway address was respondent's corporate address; and that Mr. Rubin was its registered agent. Mr. Stewart also forwarded an affidavit from Anthony Allen, respondent's manager during an undisclosed period beginning in January 1985,²which is dated April 27, 1990, indicating that respondent's present address was ``c/o Jeffrey Claverie, Pearl

²Mr. Stewart's request for attorney's fees includes an affidavit from Mr. Allen dated January 3, 1991, and describing him as an ``Agent'' of respondent. This document does not include either Mr. Allen's or respondent's address.

Gardens, Digo, Marti, Trinidad, West Indies.''³ A document filed with me by complainant over date of April 13, 1990, attaches a ``Memorandum of Investigation'' stating that on April 12, 1990, the Florida Department of State, Division of Corporate Records, advised the investigator by telephone that, inter alia, ``Alan Rubin is registered agent, address is 21336 W. Dixie Highway/N. Miami, Florida./Jeffrey Claverie is President and Treasurer, address is 9075 Taft Street/Pembroke Pines, Florida.''

Because of the parties' dispute about the effect of the chief administrative hearing officer's December 5 action, and because the confusion generated by the foregoing documents has left Mr. Stewart as the only individual with unquestionable power to accept documents on respondent's behalf and his law office as the only address where such documents can unquestionably be effectively delivered, it is inappropriate to permit Mr. Stewart to withdraw as respondent's counsel unless and until either (1) the chief administrative hearing officer has issued a definitive determination that his December 5 action effected a dismissal of this proceeding, (2) Mr. Stewart has advised the chief administrative hearing officer, complainant, and me of the name, title, address, and telephone number of someone else who possesses such power to accept documents, or (3) another attorney files a notice of appearance on respondent's behalf. Accordingly, Mr. Stewart's offer of notice of withdrawal from the instant proceeding is rejected.

Dated: January 4, 1991.

NANCY M. SHERMAN
National Labor Relations Board
Division of Administrative Law Judges
Rosenthal Building Suite 601
1550 Wilson Boulevard
Rosslyn, VA 22209-2426

³The affidavit describes his employer as, and attaches the West Indies address to, ``A & S Export, Inc.,'' which respondent has variously described as itself before a name change, and as a company of which respondent is a division.