

**U.S. Department of Labor**

Administrative Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



**IN THE MATTER OF:**

**DANNY COLLINS,**

**ARB CASE NO. 2023-0057**

**COMPLAINANT,**

**ALJ CASE NO. 2023-STA-00003**

**ALJ PATRICIA J. DAUM**

**v.**

**DATE: October 24, 2023**

**NEXT MARKETING, INC.,**

**RESPONDENT.**

**Before HARTHILL, Chief Administrative Appeals Judge, and PUST,  
Administrative Appeals Judge**

## **DECISION AND ORDER**

PER CURIAM:

This case arises under the Surface Transportation Assistance Act of 1982 (STAA), as amended.<sup>1</sup> Danny Collins (Complainant) filed a whistleblower complaint against Next Marketing, Inc. (Respondent) for alleged retaliation. On August 11, 2023, while this case was pending before a United States Department of Labor Administrative Law Judge (ALJ), Complainant requested that his complaint be withdrawn and asserted that he no longer wished to proceed to have his case heard by the ALJ.<sup>2</sup> Complainant stated that he intended to pursue his rights under the whistleblower protection provisions of the STAA by filing a complaint in an appropriate U.S. District Court as permitted by 29 C.F.R. § 1982.114.<sup>3</sup> On the same

---

<sup>1</sup> 49 U.S.C. § 31105(a), as implemented by 29 C.F.R. Part 1978 (2023).

<sup>2</sup> Order of Dismissal at 1.

<sup>3</sup> *Id.*

day, the ALJ issued an Order of Dismissal, dismissing Complainant's complaint with prejudice.<sup>4</sup>

According to the STAA's implementing regulations, parties seeking review of an ALJ decision before the Board should "identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived."<sup>5</sup> Additionally, the STAA's implementing regulations provide that a petition for review must be filed within 14 days of the date of the ALJ's decision.<sup>6</sup>

On September 28, 2023, Complainant filed a document with the Administrative Review Board (Board) which appeared to be a copy of the ALJ's Order of Dismissal. Complainant's filing was made 48 days after the ALJ issued the Order of Dismissal on August 11, 2023, thus, rendering any attempt to seek review of the ALJ's Order of Dismissal untimely.

Accordingly, on September 29, 2023, the Board issued an Order to Show Cause directing Complainant to show cause why his appeal should not be dismissed for his (1) failing to file a petition for review identifying objections to the conclusions or orders of the ALJ; and (2) failing to file a timely petition for review with the Board.<sup>7</sup> The Order to Show Cause required Complainant to respond within ten (10) days and informed Complainant that his failure to do so may result in the issuance of sanctions, including the dismissal of his appeal.<sup>8</sup> Complainant failed to respond to the Order to Show Cause as directed.

The Board has inherent power to dismiss a case for failure to prosecute in an effort to control its docket and to promote the efficient disposition of its cases.<sup>9</sup> Pursuant to this authority, the Board may dismiss a complaint in a case in which the complainant failed to comply with the Board's orders.<sup>10</sup>

---

<sup>4</sup> *Id.* at 2.

<sup>5</sup> 29 C.F.R. § 1978.110(a).

<sup>6</sup> *Id.*

<sup>7</sup> Order to Show Cause at 1-2.

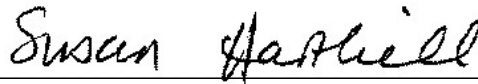
<sup>8</sup> *Id.*

<sup>9</sup> *Knibb v. N.J. Transit Rail Operations, Inc.*, ARB No. 2023-0011, ALJ No. 2020-FRS-00078, slip op. at 4 (ARB Feb. 3, 2023) (citation omitted).

<sup>10</sup> *Id.* (dismissing appeal where the complainant failed to respond to, and comply with, the Board's orders, including an order to show cause); *Boch v. J.P. Morgan Sec.*, ARB No.

Complainant failed to file a response to the Order to Show Cause and failed to file a Petition for Review as ordered by the Board. The Board cautioned Complainant that his failure to comply with the Order to Show Cause may result in the dismissal of his appeal. Accordingly, as Complainant failed to respond to the Order to Show Cause and file a Petition for Review, we **DISMISS** this matter.<sup>11</sup>

**SO ORDERED.**



---

**SUSAN HARTHILL**  
Chief Administrative Appeals Judge



---

**TAMMY L. PUST**  
Administrative Appeals Judge

---

2022-0029, ALJ Nos. 2020-CFP-00002, 2020-SOX-00004, slip op. at 2 (ARB June 15, 2022) (same).

<sup>11</sup> In any appeal of this Decision and Order that may be filed, we note that the appropriately named party is the Secretary, Department of Labor, not the Administrative Review Board.