

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 01 June 2017

CASE NO.: 2017-CFP-00008

In the Matter of:

MARK HOLBROOK,
Complainant,

vs.

LUTHER BURBANK SAVINGS,
Respondent.

ORDER VACATING HEARING AND DISMISSING CASE

This case arises under the Consumer Financial Protection Act, 12 U.S.C. § 5567. It was initiated before the Office of Administrative Law Judges (“OALJ”) when the Complainant, Mark Holbrook, filed a timely objection to a March 22, 2017, decision by the Regional Supervisory Administrator for the Occupational Safety and Health Administration on behalf of the Secretary of Labor dismissing his complaint that he had been terminated by Luther Burbank Savings, the Respondent, in violation of the Consumer Financial Protection Act. This case is scheduled to go to hearing before me on September 14, 2017, in Santa Barbara, California.

On May 24, 2017, the Complainant’s counsel filed a document entitled “Notice of Dismissal” with a one line sentence “Complainant Mark Holbrook, by and through counsel, hereby dismisses the above-captioned action without prejudice.” Though the cover letter said that there was an original and one copy of the document, the “original” did not bear an original signature. It simply had the notation “/s/ David L. Scher” on the signature line. I issued an order the same day asking the Complainant to clarify the filing and advising him that I would not accept a document that did not bear a signature and that if the Complainant intended the filing to be a withdrawal of the objections to the OSHA findings and his request for a hearing, then the dismissal could not be without prejudice because if the withdrawal is accepted, the Secretary’s findings become final pursuant to 29 C.F.R. § 1985.111(c).

On May 31, 2017, the Complainant’s counsel responded to my Order with a clarification that the Complainant wishes to fully dismiss his complaint and is withdrawing his request for a hearing. He also acknowledged that the matter would be dismissed with prejudice and included the dismissal request with his actual signature.

In light of this clarification, the Complainant's withdrawal of his objections to the Secretary's findings and his request for a hearing is accepted. It is hereby ORDERED that this case be DISMISSED WITH PREJUDICE and that the September 14, 2017, hearing and pre-hearing schedule be VACATED.

JENNIFER GEE
Administrative Law Judge