



Issue Date: 20 November 2020

Case No.: 2021-CFP-00002
OSHA No.: 4-3750-18-142

In the Matter of:

BRIAN ALLEN,
Complainant,

v.

NORTH STATE BANCORP d/b/a/ NORTH STATE BANK,
Respondent.

ORDER OF DISMISSAL

The above-captioned matter arises under the Consumer Financial Protection Act of 2010 (“CFPA” or “the Act”), as amended, 12 U.S.C. § 5567, and the implementing regulations at 29 C.F.R. Part 1985.

On or about August 17, 2018, Brian Allen (“Complainant”) filed a complaint with the U.S. Department of Labor, Occupational Safety and Health Administration (“OSHA”) alleging, in part, that Respondent North State Bancorp, d/b/a/ North State Bank, terminated his employment on or around March 16, 2018 in retaliation for reporting CFPA compliance violations. On September 24, 2020, the Secretary of Labor, acting through the Regional Administrator of OSHA, dismissed the complaint, finding no reasonable cause to believe that Respondent violated the whistleblower protection provisions of the CFPA.¹

On November 19, 2020, Complainant advised this Court that he exercised his right to pursue his claim in federal district court, in accordance with 29 C.F.R. § 1985.114,² and attached

¹ Complainant appears to have received a copy of the dismissal on or about October 21, 2020.

² Under the enforcement provisions of the CFPA, if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint, and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. 12 U.S.C. § 5567(c)(4)(D)(i). In this matter, more than 210 days has passed since Complainant filed his complaint with OSHA, there is no indication of bad faith, and Complainant appears to have filed his action in federal district court before the Secretary has issued a final decision.

a copy of a complaint filed in the United States District Court for the Eastern District of North Carolina on November 17, 2020.³ Under 12 U.S.C. § 5567(c)(4)(D)(i), the United States District Court has assumed jurisdiction of this matter.⁴

Accordingly, it is hereby ORDERED that the above captioned matter pending before the Office of Administrative Law Judges is DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

³ Case 5:20-cv-00604-BO.

⁴ *See, e.g., Stone v. Duke Energy Corp*, 432 F.3d 320, 322-23 (4th Cir. 2005) (stating that, once a complainant filed a Sarbanes-Oxley complaint in federal district court, the district court assumed jurisdiction from the administrative law judge).