



Issue Date: 15 June 2007

CASE NO: 2007-SOX-00031

In the Matter of:

SAMUEL A. MILEY,
Complainant,

v.

EMERACHEM, LLC and CUMMINS, INC.
Respondents.

ORDER OF DISMISSAL

On October 30, 2006, Complainant filed a claim under the Sarbanes Oxley Act of 2002 (SOX), Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, 18 U.S.C. § 1514A, et seq. The Secretary denied the claim on February 6, 2007 and the Complainant timely appealed.

On June 8, 2007, Complainant filed a Motion for Voluntary Dismissal. Therein, Complainant gave notice that the cause of action is voluntarily dismissed by the Complainant without prejudice. As no final decision was issued within 180 days of the Complainant's filing of the Complaint in this action, and such delay was not due to the bad faith of Complainant, Complainant intends to file an action in the appropriate United States federal court. Once a complainant files a claim with District Court, pursuant to Section 1514A(b)(1)(B) of the Act, an Administrative Law Judge no longer has jurisdiction over the matter. *Stone v. Duke Energy Corp.*, 432 F.3d 320 (4th Cir. 2005) (case below 2003-SOX-12).

Based upon Complainant representations that he intends to file an action in the appropriate United States federal court, the Motion for Voluntary Dismissal is hereby **GRANTED WITHOUT PREJUDICE.**

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LARRY W. PRICE
Administrative Law Judge