



Issue Date: 29 October 2008

In the Matter of:

SCOTT BECHTEL,
Complainant

Case No.: 2008-SOX-0035

v.

COMPETITIVE TECHNOLOGIES, INC.,

and

PAUL LEVITSKY,
Respondents

ORDER DISMISSING APPEAL TO OALJ WITH PREJUDICE

This proceeding arises from a claim of whistleblower protection under § 806 of the Corporate and Criminal Fraud Accountability Act, Title VIII of the Sarbanes-Oxley Act, 18 U.S.C. § 1514A. The Complainant requested the Office of Administrative Law Judges (“OALJ”) to review a finding by the Occupational Safety and Health Administration (“OSHA”) that there is not reasonable cause to believe that the Respondents violated his rights under the Act. The statute and implementing regulations provide that a complainant may file a complaint in the United States District Court if the Secretary of Labor has not issued a final decision within 180 days of the filing of a complaint with OSHA, and there is no showing that such delay is due to the bad faith of the complainant. *See* 18 U.S.C. § 1514A(b)(1)(B); 29 CFR § 1980.114. More than 180 days have elapsed since the complaint was filed in this case and, on August 28, 2008, the Complainant filed a notice of intention to file in the Federal District Court. On October 3, 2008, the Complainant filed a Motion to Dismiss the claim With Prejudice. Pursuant to 29 CFR §§ 18.4 and 18.6, the Respondents’ responses were due on October 20, 2008. No response having been filed by any party, I now find that the Complainant’s Motion to Dismiss the claim should be granted.

IT IS THEREFORE ORDERED that the Complainant’s appeal of the OSHA findings filed with the OALJ in this matter is DISMISSED WITH PREJUDICE.

A

ALICE M. CRAFT
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review (“Petition”) with the Administrative Review Board (“Board”) within ten (10) business days of the date of the Administrative Law Judge’s decision. *See* 29 C.F.R. § 1980.110(a). The Board’s address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1980.110(c). Your Petition must specifically identify the findings, conclusions, or orders to which you object. Generally, you waive any objections you do not raise specifically. *See* 29 C.F.R. § 1980.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. The Petition must also be served on the Assistant Secretary, Occupational Safety and Health Administration, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

If no Petition is timely filed, the Administrative Law Judge’s decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1980.109(c). Even if you do file a Petition, the Administrative Law Judge’s decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days after the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1980.109(c) and 1980.110(a) and (b).