



Issue Date: 21 August 2008

Case No. 2008-SOX-00023

In the Matter of:

ALLEN HEJAZINIA,
Complainant,

v.

GRUB & ELLIS MANAGEMENT SERVICES,
Respondent.

**DECISION AND ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY
DECISION AND DISMISSING COMPLAINT.**

This matter arises out of a complaint filed by Allen Hejazinia ("Complainant") against Grub & Ellis Management Services, ("Respondent") under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. §1514A ("SOX" or the "Act"). On January 18, 2008, OSHA issued a final determination letter that the complaint was untimely filed.

Pre-hearing order #2 summarizes a conference call held by the Presiding Judge with the pro se Complainant and Counsel for Respondent on July 23, 2008. In that conference call, Complainant noted that he would be moving from Chicago to Seattle and would establish a new residence there by August 1, 2008. He agreed to notify opposing counsel and the Presiding Judge as soon as possible with regard to his new address and telephone number. Because of this, Counsel for Respondent agreed to wait until early August to file a potentially dispositive motion for summary decision.

As of the date of this decision and order, Complainant has notified neither the Presiding Judge nor opposing counsel of his new address or telephone number.

Counsel for Respondent filed his motion for summary decision on August 7, 2008. It was mailed to Complainant's last known address. Complainant has not responded to the motion.

Respondent's Motion for Summary Decision

Complainant's initial complaint was filed with the Occupational Safety and Health Administration by fax on May 1, 2007 (Complaint is attached to Secretary's Findings dated January 18, 2008). Respondent has submitted a letter to Complainant from Respondent dated January 30, 2007 stating that "[a]s a result of the elimination of your position, your employment

with the Company, and all positions held with the Company, are terminated effective at the close of business on February 1, 2007...(Mo. Sum. Dec. Exhibit 2).

Complainant has failed to offer any evidence to rebut the evidence in the record showing that the claim was filed more than 90 days form the date Complainant receive a written, final, definitive and unequivocal notice of termination. Nor is there any evidence in the record justifying tolling the 90 day deadline to file a complaint.

As a result, Respondent's Motion for Summary Decision is GRANTED. IT IS ORDERED that this complaint IS DISMISSED.

SO ORDERED

A

DANIEL A. SARNO, JR.
Administrative Law Judge

DAS/ccb
Newport News, Virginia

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).