



In the Matter of:

AMIEE YELINEK,

ARB CASE NO. 2018-0032

COMPLAINANT,

ALJ CASE NO. 2016-CFP-00003

v.

DATE: July 17, 2019

**ALL CITY BAIL BOND CO.,
d/b/a ALL CITY BAIL BONDS,**

RESPONDENT.

Appearances:

For the Complainant:

Amiee Yelinek; *pro se*; Vashon, Washington

For the Respondent:

Michael A. Larson, Esq. and McKean J. Evans, Esq.; *Pivotal Law Group, PLLC*; Seattle, Washington

Before: James A. Haynes and Daniel T. Gresh, *Administrative Appeals Judges*

FINAL DECISION AND ORDER

PER CURIAM. Amiee Yelinek, a bail bond agent, complained that the Respondent, her employer All City Bail Bonds, fired her in violation of the employee protection provisions of the Consumer Financial Protection Act of 2010, Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010 (CFPA or Act) and its implementing regulations¹ because she expressed

¹ 12 U.S.C. § 5567 (2010), as implemented at 29 C.F.R. Part 1985 (2018).

concerns that customers were being unlawfully surcharged during credit card transactions. She filed a complaint pursuant to the CFPA's employee protection provisions with the Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA).² OSHA dismissed the complaint and Yelinek requested a hearing. After a hearing, a DOL Administrative Law Judge (ALJ) denied Yelinek's complaint. Yelinek appealed to the Administrative Review Board (ARB). We affirm because Complainant has failed to show that Respondent is a "covered person or service provider" under the CFPA.

JURISDICTION AND STANDARD OF REVIEW

The Secretary of Labor has delegated authority to issue final agency decisions under the CFPA and its implementing regulations to the ARB.³ The Board reviews the ALJ's factual determinations under the substantial evidence standard.⁴ The Board reviews conclusions of law de novo.⁵

DISCUSSION

The CFPA prohibits a "*covered person or service provider*" from terminating or in any other way discriminating against any covered employee because such employee engages in any of the protected activities identified under 12 U.S.C. § 5567(a)(1)-(4) (emphasis added). Specifically, a "*covered person or service provider*"

² In her petition for review and brief to the ARB, Complainant makes reference to the Consumer Financial Protection Bureau and its authority to prevent "a covered person or service provider" from committing or engaging in "unfair, deceptive, and abusive acts and practices" in violation of the CFPA. *See* 12 U.S.C. §§ 5531, 5536(a)(1)(B). The Bureau is an independent agency that has jurisdiction under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563(a), 5565, to ensure or enforce compliance with the CFPA and any other Federal law that the Bureau is authorized to enforce. But the complaint in this case was filed pursuant to the separate employee protection provisions of the CFPA, which authorizes the Secretary of Labor to investigate and issue a final order. *See* 12 U.S.C. § 5567.

³ *See* Secretary's Order No. 1-2019 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 84 Fed. Reg. 13072, § 5(b)(7) (Apr. 3, 2019); 29 C.F.R. § 1985.110(a).

⁴ 29 C.F.R. § 1985.110(b).

⁵ *Childs v. Sente Mortgage*, ARB No. 14-043, ALJ No. 2013-CFP-004, slip op. at 2 (ARB Oct. 29, 2015) (citation omitted).

under the CFPA engages “in offering or providing a consumer financial product or service.”⁶ But a “financial product or service” does not include “the business of insurance.”⁷ The “business of insurance means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.”⁸

As both parties are located in the State of Washington,⁹ Washington State law applies to this case. Under Washington State law, a “[b]ail bond agency is defined as “a business that sells and issues corporate *surety* bail bonds or that provides security in the form of personal or real property to *ensure* the appearance of a criminal defendant before the courts of this state or the United States.”¹⁰ “Corporate surety bail bonds’ means a bail bond contract that is guaranteed by a domestic, foreign, or alien insurance company which has been qualified to transact surety insurance business in Washington state by the insurance commissioner.”¹¹ Finally, an “[i]nsurance producer” is defined as “a person required to be licensed under the laws of the state to sell, solicit, or negotiate insurance.”¹² Thus, under Washington State law, Respondent is a “person” engaged in the “business of insurance” as defined under the CFPA.¹³

⁶ 12 U.S.C. § 5481(6)(A), (26)(A) (“offering or provision . . . of a consumer financial product or service”).

⁷ 12 U.S.C. § 5481(15)(C)(i).

⁸ 12 U.S.C. § 5481(3).

⁹ See ALJ’s “Decision and Order Denying Complaint” (D. & O.) at 4 (Conclusion of Law 2.3); see also D. & O. at 2 (Findings of Fact 1-5).

¹⁰ Revised Code of Washington, Wash. Rev. Code § 18.185.010(5) (2004) (emphasis added).

¹¹ Washington Administrative Code, Wash. Admin. Code § 308-19-030(16) (2008).

¹² Wash. Rev. Code § 48.17.010(6) (2012).

¹³ D. & O. at 4 (Conclusion of Law 2.6); see also 12 U.S.C. § 5481(3).

The issue on appeal is whether the ALJ properly denied the complaint. We hold that the ALJ did so, as the CFPA excludes from its coverage “the business of insurance” and as a matter of Washington State law applicable to this case, as set forth above, Respondent’s bail bond business is in the “business of insurance.” On appeal, Complainant argues that the additional undertakings Respondent makes relating to its bail bond business, including the extension of credit and providing payment plans allowing its customers to defer payment of insurance premiums, as well as servicing loans, falls outside of the definition of the “business of insurance.” But as the ALJ explained, such undertakings that Respondent makes relating to its bail bond business are “activities relating to the writing of insurance” which are also included within the CFPA’s definition of “the business of insurance.”¹⁴ We affirm, therefore, the ALJ’s conclusion of law on this point. Complainant has failed to raise any other allegation of error which would change the result in this case. Consequently, because Respondent is not a “covered person or service provider” under the CFPA, the ALJ properly denied this complaint.

CONCLUSION

All City Bail Bonds is not a “covered person or service provider” under the CFPA. Accordingly, the ALJ’s Decision and Order Denying Complaint is **AFFIRMED.**

SO ORDERED.

¹⁴ See 12 U.S.C. § 5481(3); D. & O. at 6 (Conclusions of Law 2.8.2.1 and 2.9).