



RANDALL PITTMAN,

ARB CASE NO. 07-108

COMPLAINANT,

ALJ CASE NO. 2007-SOX-015

v.

DATE: April 21, 2010

**SIEMENS AG. SIEMENS
MEDICAL SOLUTIONS,
DIAGNOSTIC PRODUCTS CORP.,
SEYFARTH SHAW LLP, DAVID J.
ROWLAND, ERICH R. REINHARDT,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Randall Pittman, *pro se*, Sherman Oaks, California

For the Respondent:

Christian J. Rowley, *Seyfarth Shaw LLP*, San Francisco, California

**FINAL DECISION AND ORDER GRANTING
MOTION TO WITHDRAW COMPLAINT**

On August 7, 2006, the Complainant, Randall Pittman, filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration alleging that the Respondents, Siemens AG, et al., had retaliated against him in violation

of the whistleblower protection provisions of the Sarbanes-Oxley Act of 2002 (SOX).¹ On July 26, 2007, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order Dismissing Complaint and Denying Request for Attorney's Fees in this case, finding that Pittman's complaint must be dismissed with prejudice for a number of reasons: (1) Pittman failed to demonstrate that any of the Respondents are subject to the SOX; (2) Pittman's claims of wrongful termination, blacklisting, failure to mediate wage and hour disputes, slander, and hostile work environment all are barred by the SOX's 90-day statute of limitations; (3) Pittman's second slander claim and his anti-SLAPP claim are not covered by the SOX.²

Pittman filed a petition for review with the Administrative Review Board. The Secretary of Labor has delegated to the Board her authority to issue final agency decisions under SOX.³

On March 18, 2010, the Board received Complainant's Notice of Removal to District Court, in which Pittman stated his intention to bring an action in federal court, as authorized by 18 U.S.C.A. § 1514A(b)(1)(B) for de novo review of the claim currently pending before the Board. If the Board has not issued a final decision within 180 days of the date on which the complainant filed the complaint and there is no showing that the complainant has acted in bad faith to delay the proceedings, the complainant may bring an action at law or equity for de novo review in the appropriate United States district court, which will have jurisdiction over the action without regard to the amount in controversy.⁴ Accordingly, we ordered the parties to show cause why the Board should not dismiss Pittman's claim pursuant to 18 U.S.C.A. § 1514A(b)(1)(B).

¹ 18 U.S.C.A. § 1514A (Thomson/West Supp. 2009). The SOX's section 806 prohibits certain covered employers from discharging, demoting, suspending, threatening, harassing, or in any other manner discriminating against employees who provide information to a covered employer or a Federal agency or Congress regarding conduct that the employee reasonably believes constitutes a violation of 18 U.S.C.A. §§ 1341 (mail fraud), 1343 (wire, radio, TV fraud), 1344 (bank fraud), or 1348 (securities fraud), or any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders. Employees are also protected against discrimination when they have filed, testified in, participated in, or otherwise assisted in a proceeding filed or about to be filed relating to a violation of the aforesaid fraud statutes, SEC rules, or federal law.

² *Pittman v. Siemens AG*, 2007-SOX-015, slip op. at 8 (July 26, 2007).

³ Secretary's Order No. 1-2010 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 75 Fed. Reg. 3924 (Jan. 15, 2010); 29 C.F.R. § 1980.110(a)(2009).

⁴ 18 U.S.C.A. § 1514A(b)(1)(B); 29 C.F.R. § 1980.114.

Neither party has responded to the Show Cause Order, and there has been no showing that the complainant has acted in bad faith to delay the proceedings. Accordingly, we **GRANT** Pittman's motion to withdraw his claim so that he may proceed in district court.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge