



EDWIN MOLDAUER,

ARB CASE NO. 10-055

COMPLAINANT,

ALJ CASE NO. 2010-SOX-009

v.

DATE: March 9, 2010

**CANANDAIGUA WINE CO. INC.,
J. MORAMARCO, R. SANDS,
BRENT HANSSTON,
DARLENE PENN BORELLI,
RON FONDILLER, and PAUL ZIEFF,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**NOTIFICATION TO PARTIES THAT CASE
HAS NOT BEEN ACCEPTED FOR REVIEW**

On February 5, 2010, the Complainant, Edwin Moldauer, filed a Notice of Appeal from a Department of Labor Administrative Law Judge's Order Dismissing Complaint¹ with the Administrative Review Board in this case arising under the Sarbanes-Oxley Act.² The body of the document stated in its entirety:

This notice is filed within the 10 days (business) as required. Please notify [sic] the briefing schedule to address the key objections in detail in respect to facts, findings, interpretations conclusions as presented and the

¹ *Moldauer v. Canandaigua Wine Co.*, 2010-SOX-009 (Jan. 28, 2010).

² 18 U.S.C.A. § 1514A (Thomson/West Supp. 2009).

order of AJL22010-SOX-00009 [sic] 28 Jan 2010 as per notice of appeal rights.

The SOX's implementing regulations provide:

The petition for review must specifically identify the findings, conclusions or orders to which exception is taken. Any exception not specifically urged ordinarily will be deemed to have been waived by the parties.^[3]

Furthermore, the notice of appeal rights to which Moldauer's notice of appeal refers informed Moldauer, "Your Petition must specifically identify the findings, conclusions or orders to which you object. Generally, you waive any objections you do not raise specifically." Nevertheless, Moldauer did not identify any findings or conclusions to which he objects. Therefore the Board could consider his objections to the ALJ's findings and conclusions to be waived.

In any event, the SOX's regulations further provide:

If a timely petition for review is filed pursuant to paragraph (a) of this section, the decision of the administrative law judge will become the final order of the Secretary unless the Board, within 30 days of the filing of the petition, issues an order notifying the parties that the case has been accepted for review.^[4]

Upon review of Moldauer's Notice of Appeal and the ALJ's Order Dismissing Complaint, the Board has decided **not** to accept the case for review. Accordingly, the ALJ's decision is the final order of the Secretary in this case.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel

Note: Questions regarding any case pending before the Board should be directed to the Board's Paralegal Specialist. Juanetta Walker - Telephone: (202) 693-6200
Facsimile: (202) 693-6220

³ 29 C.F.R. § 1980.110(a)(2009).

⁴ 29 C.F.R. § 1980.110(b)(2009).