



LAURIE HILLENBRAND,
COMPLAINANT,

ARB CASE NO. 10-101

ALJ CASE NO. 2008-SOX-010

v.

DATE: September 24, 2010

COLDWATER CREEK, INC.,
RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Lynn R. Nakamoto, Esq., *Markowitz Herbold Glade & Mehlhaf PC, Portland, Oregon*

For the Respondent:

Keller V. Allen, Esq., *Law Firm of Keller W. Allen, PC, Spokane, Washington*

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*, and E. Cooper Brown, *Deputy Chief Administrative Appeals Judge*

FINAL DECISION AND ORDER DISMISSING COMPLAINT

On July 7, 2008, the Complainant, Laurie Hillenbrand, filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration alleging that the Respondent, Coldwater Creek, Inc., had retaliated against her in violation of the whistleblower protection provisions of the Sarbanes-Oxley Act of 2002 (SOX).¹ On April 23, 2010, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order Dismissing Complaint (D. & O.) in this case, finding that Hillenbrand had failed to prove by a preponderance of the evidence that "there was any

¹ 18 U.S.C.A. § 1514A (Thomson/West Supp. 2010).

connection between her protected activity and the Respondent's decision concerning her future role in the company."²

Hillenbrand 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 August 18, 2010, the Board received a Notice of Intent to File in Federal Court from Hillenbrand, in which she stated her intention to bring an action in federal court, as authorized by 29 C.F.R. § 1980.114(a), 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 no later than September 7, 2010, why the Board should not dismiss Hillenbrand's claim pursuant to 29 C.F.R. § 1980.114. We cautioned the Complainant that should she fail to timely reply to this Order, the Board could dismiss this claim without further notice.

Coldwater Creek did not respond to the Board's order. Hillenbrand filed a letter dated September 3, 2010, confirming her intent to file in district court. Accordingly, we **DISMISS** Hillenbrand's complaint pursuant to 29 C.F.R. § 1980.114.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

² D. & O. at 92.

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. As is generally the case, the 180-day period had expired before the complainant filed the appeal with the ARB.