



RENAE WIMER-GONZALES,
COMPLAINANT,

v.

J. C. PENNEY CORP., INC.,
RESPONDENT.

ARB CASE NO. 10-148

ALJ CASE NO. 2010-SOX-045

DATE: November 17, 2011

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Renae Wimer-Gonzales, pro se, Lake Forest, California

Before: Paul M. Igasaki, Chief Administrative Appeals Judge and Lisa Wilson Edwards, Administrative Appeals Judge

**ORDER DISMISSING COMPLAINT AND
DENYING MOTION FOR EXTENSION OF TIME**

This case arose under the whistleblower protection provisions of the Sarbanes-Oxley Act of 2002 (SOX).¹ On September 13, 2011, the Board received a Notice of Intent to File Complaint in the United States District Court from Wimer-Gonzales, in which she stated that she intended to bring an action in federal court, as authorized by 29 C.F.R. § 1980.114(a)(2010), 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

¹ 18 U.S.C.A. § 1514A (Thomson/West Supp. 2011).

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.²

On October 13, 2011, the Administrative Review Board issued an Order to Show Cause in response to the Complainant's notification to the Board of her intent to file a de novo complaint in district court. Because the regulation provides that the complainant may file the de novo complaint only if there is no showing that the complainant has acted in bad faith to delay the proceedings, we issued an order to show cause permitting the parties to demonstrate why the Board should not dismiss the complaint as requested.

The Respondent did not respond to the Order to Show Cause. Thus, the Respondent has not objected to Wimer-Gonzales's notification of intent to file a de novo complaint in district court. Wimer-Gonzales requested an extension of time to provide the Board with clarification of the Administrative Law Judge's Decision and Order Granting Summary Judgment. But the basis for the Administrative Law Judge's Decision and Order is not relevant to the Complainant's notification that she intends to file a de novo complaint in district court pursuant to 29 C.F.R. § 1980.114(a). The only relevant question is whether she acted in bad faith to delay the proceedings. As there is no evidence that she did so, we **DENY** her request for an extension of time to respond to the Order to Show Cause and **DISMISS** Wimer-Gonzales's complaint in accordance with her notification that she intends to file a de novo complaint in district court.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge

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