



IN THE MATTER OF:

KENNON MARA,

ARB CASE NO. 12-084

COMPLAINANT,

ALJ CASE NO. 2009-SOX-018

v.

DATE: July 16, 2012

SEMPRA ENERGY TRADING, LLC,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER DENYING MOTION FOR ENLARGEMENT OF TIME TO FILE
PETITION FOR INTERLOCUTORY REVIEW**

This case arises under the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002,¹ and its implementing regulations.² On July 5, 2012, the Complainant, Kennon Mara, filed a Request for an Extension of Time to File A Petition for Review for Withdrawal Pursuant to C.F.R. 29 1980.114. In this request Mara avers, “it is currently my belief that an appeal of this denial **may** be considered to be due no later than Monday July 9th, 2012.” Therefore Mara asks that she be given until July 19, 2012 to file her appeal.

The Secretary of Labor has delegated her authority to the Administrative Review Board to hear interlocutory appeals under SOX.³ Mara does not state the basis for her belief that we may consider the appeal of her denial no later than July 9th. Where an

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

² 29 C.F.R. Part 1980 (2011).

³ Secretary’s Order No. 1-2010 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 75 Fed. Reg. 3924, § 5(c)(48)(Jan. 15, 2010).

Administrative Law Judge (ALJ) has issued an order of which the party seeks interlocutory review, the ARB has elected to look to the procedures set forth in 28 U.S.C.A. § 1292(b)(Thomson/West 2006) to determine whether to accept for review an interlocutory appeal.⁴ Under these procedures:

When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order.

Mara has failed to apply for review within ten days after the ALJ entered his June 7, 2012 Order Denying Complainant's Motion to Withdraw under 29 C.F.R. § 1980.114. Accordingly her petition for review is untimely, and we will not consider it.

Furthermore, Mara has previously requested, and we have denied interlocutory review of the issue whether the alleged waiver of her 18 U.S.C.A. § 1514A(b)(2)(E) was valid.⁵ We also denied Mara's petition for reconsideration of our decision not to consider this issue on interlocutory review.⁶ We are not inclined to revisit this determination for a third time.

SO ORDERED.

LISA WILSON EDWARDS
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

LUIS A. CORCHADO
Administrative Appeals Judge

⁴ *Mara v. Sempra Energy Trading, LLC*, ARB No. 12-021, ALJ No. 2009-SOX-018, slip op. at 5 (ARB Jan. 31, 2012); *Johnson v. US Bancorp*, ARB No. 11-018, ALJ No. 2010-SOX-037 (ARB Mar. 14, 2011).

⁵ *Mara*, ARB No. 12-021, slip op. at 4-6.

⁶ *Mara v. Sempra Energy Trading, LLC*, ARB No. 12-021, ALJ No. 2009-SOX-018 (ARB Mar. 20, 2012).