



JAMIE TULLEY CANDLER,  
COMPLAINANT,

ARB CASE NO. 13-045  
ALJ CASE NO. 2012-SOX-005

v.

DATE:

URS CORP.,

JUL - 3 2013

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

*For the Complainant:*

Wes Bearden, Esq., *J.W. Bearden & Associates, PLLC*; Dallas, Texas

*For the Respondent:*

Britta Erin Stanton, Esq. and Gail A Hayworth, Esq.; *Lynn Tillotson Pinker & Cox, LLP*; Dallas, Texas

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge* and Luis A. Corchado  
*Administrative Appeals Judge*

2013 JUL 9 AM 11 09  
ASST. DIR. JONES  
WASHINGTON, DC

**FINAL DECISION AND ORDER DISMISSING COMPLAINT**

On May 25, 2011, the Complainant, Jamie Tulley Candler, filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration alleging that the Respondent, URS Corp., had retaliated against her in violation of the whistleblower protection provisions of the Sarbanes-Oxley Act of 2002 (SOX).<sup>1</sup> On March 6, 2013, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order finding that the Respondent established by clear and convincing

<sup>1</sup> 18 U.S.C.A. § 1514A (Thomson/West Supp. 2012).

evidence that it would have terminated Candler's employment in the absence of her protected activity.<sup>2</sup>

Candler 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.<sup>3</sup>

On April 11, 2013, the Board was notified that the Complainant filed her SOX whistleblower claim in federal district court on March 29, 2013, seeking de novo review under 18 U.S.C.A. § 1514A. SOX regulations at 29 C.F.R. § 1980.114(a) provide that 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.<sup>4</sup> The regulations also provide:

(b) Within seven days after filing a complaint in Federal court, a complainant must file with the Assistant Secretary, the ALJ, or the ARB, depending on where the proceeding is pending, a copy of the file-stamped complaint. A copy of the complaint also must be served on the Regional Administrator, the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.<sup>[5]</sup>

The Complainant did not file a copy of the complaint with the Board in accordance with the regulations. Nevertheless to avoid an unnecessary and wasteful expenditure of time and resources on a case for which de novo review is being sought, we ordered the parties to show cause no later than May 4, 2013, why the Board should not dismiss Candler's complaint pursuant to 29 C.F.R. § 1980.114. On April 22, 2013, the Board received "Complainant's Notice of Election to Seek Trial *De Novo* in United States District

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<sup>2</sup> Slip op. at 19.

<sup>3</sup> See Secretary's Order 02-2012 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 77 Fed. Reg. 222 (Nov. 16, 2012). See also 29 C.F.R. § 1980.110 (2012).

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

<sup>5</sup> 29 C.F.R. § 1980.114(b).

Court.”<sup>6</sup> The Respondent filed “Defendant URS Corporations’ Response to ARB’s Order to Show Cause.

The Respondent avers that the ARB should not dismiss Candler’s complaint because she waived her right to go to district court in a representation to the ALJ, Candler engaged in bad faith delay, and literal application of section 1514A(b)(1)(B) to this case would lead to an absurd result. Pursuant to 29 C.F.R. § 1980.114(b), a complainant is required to give notice of his or her intent to obtain de novo review in district court within seven days **after** filing a complaint in the court. Accordingly, as Candler has notified the ARB that she has filed a complaint in federal district court for de novo review, we **DISMISS** her complaint.

**SO ORDERED.**

  
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PAUL M. IGASAKI  
Chief Administrative Appeals Judge

  
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LUIS A. CORCHADO  
Administrative Appeals Judge

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<sup>6</sup> To date, Candler has not complied with 29 C.F.R. § 1980.114(b) by providing the Board with a copy of her Federal District Court Complaint.