



In the Matter of:

ANDREA L. BROWN,

ARB CASE NO. 14-008

COMPLAINANT,

ALJ CASE NO. 2008-SOX-049

v.

DATE: December 19, 2013

LOCKHEED MARTIN CORP.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Diane S. King, Esq.; King & Greisen, LLP; Denver, Colorado

For the Respondent:

Matthew J. Rita, Esq.; Holme Roberts & Owen LLP; Denver, Colorado

Before: Paul M. Igasaki, Chief Administrative Appeals Judge; Luis A. Corchado, Administrative Appeals Judge; and Joanne Royce, Administrative Appeals Judge

DECISION AND ORDER OF REMAND

On January 25, 2008, Andrea L. Brown filed a complaint with the United States Department of Labor (DOL) under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (SOX). 18 U.S.C.A. § 1514A (Thomson/West Supp. 2013); *see also* 29 C.F.R. Part 1980 (2013). She alleged that Lockheed Martin Corporation violated the SOX's employee protection provision when it constructively discharged her because she made protected complaints. After a hearing, an Administrative Law Judge (ALJ) issued a decision finding that Brown had engaged in protected activity and that her constructive discharge was causally related to the protected activity. The ALJ recommended reinstating Brown and awarding her damages and directed Brown to submit an application for attorney's fees and costs. Lockheed timely appealed the ALJ's decisions. We affirmed.

Lockheed appealed to the Tenth Circuit, which affirmed the Board's decision. The Tenth Circuit left the Board's affirmance of the ALJ's award undisturbed, but noted that the Department of Labor had conceded that "it may now be necessary for the Board to quantify its award of back pay, medical expenses, and attorney's fees, and to reexamine its award of reinstatement to the extent an appropriate position for Brown at Lockheed no longer exists." The Court remanded the matter to the Board "to make those determinations." *Lockheed Martin Corp. v. ARB, DOL*, No. 11-9524, slip op. at 33 (10th Cir. June 4, 2013).

The Tenth Circuit affirmed our decision, which adopted and affirmed the ALJ's decision. Thus, the court upheld the ALJ's awards of back pay with interest, reinstatement, compensatory damages in the amount of \$75,000.00, reimbursement for all medical expenses incurred because of termination of medical benefits, and attorney's fees. However, as the determinations necessary to quantify some of the awards may require further detail and/or fact-findings by the ALJ, we remand for proceedings consistent with this decision and the Tenth Circuit's opinion.

On remand, consistent with the Tenth Circuit's remand instructions, the ALJ shall quantify the back pay award and the medical expenses award, and resolve attorney's fees issues as the ALJ deems appropriate.¹ Further, as the matter will be before the ALJ, he may choose to reexamine his award of reinstatement based on the arguments of the parties. The ALJ has discretion to allow further argument, open the record to additional evidence regarding remedies, make findings of fact and conclusions of law regarding remedies, and make any other determinations necessary to quantify the awards due to Brown so long as the ALJ's discretion complies with the Tenth Circuit's remand instructions.

SO ORDERED.

LUIS A. CORCHADO
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

¹ We note that the ALJ's order allowed Brown thirty (30) days to submit an application for attorney's fees.