In the Matter of:

JOSEPH HILL, **ARB CASE NO. 16-066**

COMPLAINANT, **ALJ CASE NO. 2013-SOX-047**

v. **DATE: November 7, 2017**

JACKSON NATIONAL LIFE INSURANCE CO.,

and

PRUDENTIAL, PLC,

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER DISMISSING APPEAL

This case arises under the employee protection provisions of the Sarbanes-Oxley Act of 2002 (SOX).[1] Complainant Joseph Hill filed a complaint alleging that Respondents Jackson National Life Insurance Company and Prudential, PLC violated the SOX by discharging him from employment. On March 14, 2016, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order dismissing Hill's Complaint. Hill appealed the ALJ's ruling to the Board.

Following his appeal, Complainant contended that he was unable to obtain substitute counsel because some of the documents in this case have been placed under seal pursuant to a stipulated protective order. We remanded the case to the ALJ, and the ALJ issued an order

[1] 18 U.S.C.A. § 1514A (Thomson West Supp. 2016). SOX's implementing regulations are found at 29 C.F.R. Part 1980 (2016).

allowing Complainant's prospective counsel to review the documents affected by the protective order under specific conditions.[2]

On August 11, 2017, the Administrative Review Board issued an Order Re-establishing Briefing Schedule (Briefing Order) in this case. Under the terms of the Briefing Order, Complainant's opening brief was due on or before September 11, 2017. We noted prior scheduling delays based on Complainant's asserted failure to obtain counsel and cautioned Complainant that if he failed to timely file his opening brief, the Board would dismiss his Petition for Review. On August 18, 2017, Complainant filed a "Response" to the Briefing Order that accused the Board of bias in favor of the Respondents but did not contain any arguments supporting his appeal.

The Board's authority to effectively manage its docket, including authority to require compliance with Board briefing orders, is necessary to "achieve orderly and expeditious disposition of cases."[3] This Board has authority to issue sanctions, including dismissal, for a party's failure to comply with the Board's orders and briefing requirements.[4]

Neither the Board nor the ALJ have impeded Complainant's ability to proceed with this case. The ALJ's ruling, hearing transcript, and most of the exhibits introduced at the hearing are part of the public record that were not placed under seal, and the exhibits that remain under seal could have been reviewed by any prospective counsel.

Complainant has had more than ample time to either retain substitute counsel or proceed pro se, and nothing he claims in terms of access to the record prevented him from doing so.

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[2] *See* ALJ's November 28, 2016 Order Modifying Stipulated Protective Order at 2-3 ("Complainant's Trial Counsel shall make the Confidential Materials available to Complainant's prospective appellate counsel for review as long as: (a) the Confidential Materials remain in the possession of Complaint's Trial Counsel; and (b) Complainant's prospective appellate counsel first provide Complainant's Trial Counsel a written agreement to be bound by the terms of the Stipulated Protective Order as modified by this Order Modifying Stipulated Protective Order (Complainant's Trial Counsel shall maintain copies of any such written agreements but need to provide them to me or anyone else unless specifically ordered to do so))."

[3] *Link v. Wabash*, 370 U.S. 626, 630-31 (1962).

[4] *Jessen v. BNSF Railway Co.*, ARB No. 12-107, ALJ No. 2010-FRS-022 (ARB July 26, 2013). *See also Ellison v. Washington Demilitarization Co.*, ARB No. 08-119, ALJ No. 2005-CAA-009 (ARB Mar. 16, 2009), *aff'd sub nom. Ellison v. U.S. Dep't of Labor,* 09-13054 (11th Cir. June 17, 2010).

Complainant has failed to comply with the orders of this Board, even after being warned that his appeal would be dismissed if he continued to do so. Accordingly, Complainant's appeal is **DISMISSED.**

SO ORDERED.

E. COOPER BROWN
Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

TANYA GOLDMAN
Administrative Appeals Judge