

U.S. Department of Labor

Office of Administrative Law Judges
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Metairie, LA 70005

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Issue Date: 16 June 2005

CASE NO.: 2005-SOX-00032

IN THE MATTER OF

**BRIAN ALBRECHT,
Complainant**

v.

**CHEVRON TEXACO, CHEVRON PRODUCTION CO.,
Respondent**

DECISION AND ORDER OF DISMISSAL

More than 180 days having passed since the filing of Complainant's complaint with the United States Department of Labor, Complainant has now filed a Motion to Dismiss the case before this office and proceed with a de novo review in Federal Court.

If the Secretary of Labor 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. Accordingly, because Complainant has opted to pursue his SOX complaint in district court rather than at the Department of Labor, I **DISMISS without prejudice** his complaint before this office. The trial scheduled for July 12, 2005, in Metairie, Louisiana, is **CANCELLED**.

So ORDERED this 16th day of June, 2005.

A

**C. RICHARD AVERY
Administrative Law Judge**

CRA:bbd

NOTICE OF APPEAL RIGHTS: To appeal you must file a petition for review (Petition) within ten business days of the date of the administrative law judge's decision with the Administrative Review Board ("Board"), U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. Your Petition must specifically identify the findings, conclusions or orders you object to. You waive any objections you do not raise specifically.

At the time you file the Petition with the Board you must serve it on all parties, and the Chief Administrative Law Judge; the Assistant Secretary, Occupational Safety and Health Administration; and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

If you do not file a timely Petition, this decision of the administrative law judge becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1980.110. Even if you do file a Petition, this decision of the administrative law judge becomes the final order of the Secretary of Labor unless the Board issues an order within 30 days after you file your Petition notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1980.109(c) and 1980.110(a) and (b).