



Issue Date: 14 September 2004

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In the Matter of:

ANTHONY F. GONZALEZ,
Complainant,

Case No. 2004-SOX-00039

v.

COLONIAL BANK,
Respondent.

&

THE COLONIAL BANCGROUP. INC.,

Respondent.
.....

ORDER CLARIFYING WHETHER AN ANSWER IS REQUIRED TO AN AMENDED COMPLAINT

Complainant, Anthony F. Gonzalez, moved to amend the complaint filed in this matter under § 806 of the Sarbanes-Oxley Act (“Act”) by adding The Colonial BancGroup, Inc. (“BancGroup”) as a named Respondent on July 16, 2004. The undersigned granted Complainant’s motion on August 17, 2004 over Respondent’s, Colonial Bank (“Colonial”), objection. On August 27, 2004, Respondents, BancGroup and Colonial, filed a motion for clarification as to whether an answer is required to Complainant’s amended complaint.

As stated in the August 17, 2004 Order Granting Motion to Amend Complaint, the complaint amended was the complaint filed with the Occupational Safety and Health Administration (OSHA). Thus, the complaint is not one which initiates a judiciary proceeding and requires a response under 29 C.F.R. Part 18. Instead, the filing of the complaint with OSHA initiates an investigation under 29 C.F.R. §1980.104. Therefore, an answer to the amended

complaint is not required. *Allen v. EG & G Defense Materials, Inc.*, 1997-SDW-8 and 10 (ALJ Aug. 21, 2001); *English v. General Electric Co.*, 85-ERA-29 Sec'y Feb. 13, 1992).

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Thomas M. Burke
Associate Chief Administrative Law Judge