

U.S. Department of Labor

Office of Administrative Law Judges
11870 Merchants Walk - Suite 204
Newport News, VA 23606

(757) 591-5140
(757) 591-5150 (FAX)



Issue Date: 28 March 2013

Case No.: **2010-AIR-00023**

In the Matter of:

NICOLE SODDERS, *pro se*,

Complainant,

v.

AERONATIX FLIGHT TRAINING,

Respondent.

ORDER OF DISMISSAL

This matter arises from a complaint filed under Section 519 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. § 42121. The claim was referred to the Office of Administrative Law Judges for formal hearing upon the June 7, 2010 appeal by Complainant of the Occupational Safety and Health Administration's determination that Respondent was not an air carrier within the meaning of 49 U.S.C. § 40102(a)(2). On July 20, 2010, Respondent's counsel filed notice that the Respondent Corporation had commenced voluntary proceedings under Chapter 7 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of Florida.

By order issued July 21, 2010, this Administrative Law Judge stayed further proceedings in the above-captioned matter and directed the Respondent to immediately file the Final Order of the U.S. Bankruptcy Court, as it related to the Respondent Corporation, upon receipt of said final order.

On February 13, 2013, Respondent's counsel filed with the Court a copy of the Honorable Eric P. Kimball's Final Decree in Bankruptcy dated July 20, 2012 for Respondent and closing the case.

When a non-governmental entity, such as a private individual, is pursuing a cause of action against a company which is in bankruptcy proceedings, further administrative proceedings

are automatically stayed.¹ *Toland v. PST Vans, Inc.*, ALJ No. 1993-STA-00029 (Sec'y Sept. 7, 1994). The automatic stay continues until the bankruptcy case is closed, dismissed, or discharge is granted or denied, or until the bankruptcy court grants some sort of relief from the stay. *Haubold v. KTL Trucking Co.*, ARB No. 08-025, ALJ No. 2000-STA-00035 (ARB Feb. 27, 2009). Once the respondent company has passed through bankruptcy, the company is considered to be discharged and dismissed from the cause of action unless the complainant provides evidence showing otherwise. See *Powers v. Paper, Allied-Industrial Chemical & Energy Workers In't Union (PACE)*, ARB No. 04-111, ALJ No. 2004-AIR-00019 (ARB Aug. 31, 2007).

Review of the Order issued by Judge Kimball establishes that the Respondent has passed through bankruptcy as of January 31, 2010. Accordingly, Complainant's appeal and request for hearing must be dismissed.

ORDER

In view of the foregoing, **IT IS HEREBY ORDERED** that the complaint is **DISMISSED** and the above referenced matter is now considered closed.

DANIEL A. SARNO, JR.
District Chief Administrative Law Judge

DAS,JR./ENK/jcb
Newport News, Virginia

¹ The actions by OSHA on an initial claim are the actions of a governmental entity and not subject to the automatic stay provisions of the U.S. Bankruptcy Code provisions of 11 U.S.C. § 362(a).