



Issue Date: 22 May 2014

CASE NO: 2014-CPS-00001

In the Matter of:

ROBERT R. SMITH, JR.,
Complainant,

v.

ARCHER DANIELS MIDLAND COMPANY, INC.,
Respondent.

**ORDER GRANTING MOTION FOR LEAVE TO WITHDRAW; NOTICE TO
COMPLAINANT RE WITHDRAWAL OF ATTORNEY**

This proceeding arises under the employee protection provisions of the Consumer Product Safety Act, 15 U.S.C. § 2087 (“CPSA”), the FDA Food Modernization Safety Act, 21 U.S.C. § 399(d) (“FDA”), and Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A (“SOX”), and the regulations implementing those statutes found at 29 C.F.R. Parts 1980 (SOX) and 1983 (CPSA).¹

By letter dated April 17, 2014, received on April 21, 2014, Complainant Robert R. Smith, Jr., requested withdrawal of the request for hearing filed by his attorney. By letter dated April 18, 2014, and also received on April 21, 2014, Mr. Smith’s counsel, E. Holt Moore III, Esq., moved for leave to withdraw as counsel in light of his appointment as a City Attorney in North Carolina. Mr. Moore’s letter indicated that he believed Mr. Smith sent his April 17 letter because Mr. Smith wished for time to seek a new attorney. Accordingly, on May 2, 2014, I issued an order requiring Mr. Smith to clarify whether he wished to withdraw his request for hearing, to be granted time to seek new counsel, or to proceed with this matter acting as his own attorney. I advised Mr. Smith of the consequences should I grant withdrawal of his request for a hearing. I also granted Mr. Moore’s motion for leave to withdraw as counsel for Mr. Smith.

By letter dated May 15, 2014, Mr. Smith advised that he had unsuccessfully sought new representation since early February, and that he did not feel himself qualified to represent himself.² He therefore explicitly stated that he wished to withdraw his request for a hearing, understanding that if I were to permit him to do so, the Secretary’s findings of February 7, 2014 dismissing his complaint would become the Final Order of the Secretary. Because Mr. Smith has

¹ No regulations have been promulgated for the implementation of cases brought under the FDA.

² Mr. Smith also expressed his dissatisfaction with Mr. Moore’s withdrawal from their contractual relationship; that matter is beyond the purview of this proceeding.

demonstrated that he desires to withdraw his objections and request for a hearing, and fully understands the consequences of doing so, his request will be granted.

ORDER

In light of the foregoing, IT IS HEREBY ORDERED:

1. The motion Robert B. Smith, Jr. to withdraw his objections to the Secretary's Findings and his request for a hearing is GRANTED;
2. The Complaint in this matter is DISMISSED; and
3. Pursuant to 29 C.F.R. §§ 1980.111(c) and 1983.111(c), the Secretary's Findings of February 7, 2014 constitute the Final Order of the Secretary.

SO ORDERED.

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge