

U.S. Department of Labor

Office of Administrative Law Judges
36 E. 7th St., Suite 2525
Cincinnati, Ohio 45202

(513) 684-3252
(513) 684-6108 (FAX)



Issue Date: 27 November 2007

Case No.: 2005-SOX-00015

In the Matter of:

CARRI S. JOHNSON,
Complainant

v.

SIEMENS BUILDING TECHNOLOGIES, INC.,
and SIEMENS AG,
Respondents

Appearances:

Jacqueline L. Williams, Esq.
Minneapolis, Minnesota
For the Complainant

Gregg F. LoCascio, Esq.
Rebecca Ruby Anzidei, Esq.
Kathryn Albrecht, Esq.
Kirkland & Ellis LLP
Washington, D.C.
For the Respondents

Before: Alice M. Craft
Administrative Law Judge

DECISION AND ORDER DISMISSING THE COMPLAINT

This proceeding arises from a claim of whistleblower protection under the Corporate and Criminal Fraud Accountability Act, Section 806 of the Sarbanes-Oxley Act, 18 U.S.C. § 1514A (“SOX” or “the Act”). This statute and implementing regulations at 29 CFR Part 1980 protect employees who blow the whistle on violations of U.S. Security and Exchange Commission rules and regulations and other laws relating to preventing fraud against shareholders. In this case, the Complainant, Carri S. Johnson, alleges that she was terminated from her position as a Branch Administrator for Siemens Building Technologies, Inc., because she reported suspected fraudulent and illegal activity in booking sales and billing customers.

STATEMENT OF THE CASE

On June 8, 2004, Ms. Johnson mailed a complaint to the Occupational Safety and Health Administration of the Department of Labor (“OSHA”), which was received by OSHA on

June 14, 2004. In her complaint, Ms. Johnson alleged that she had been terminated from her employment by Siemens Building Technologies, Inc. (“SBT”), in violation of the Sarbanes-Oxley Act.

On November 15, 2004, the Regional Administrator for OSHA issued his findings on the complaint. The Administrator found that Siemens Building Technologies, Inc., is a subsidiary of Siemens Corporation, which is a subsidiary of Siemens AG; that Siemens AG is a publicly traded entity; and, that the Respondent (SBT and Siemens AG) is a company within the meaning of Sarbanes-Oxley. The Administrator found no reasonable cause to believe that the Respondent discharged Ms. Johnson in retaliation for protected activity.

Ms. Johnson appealed the OSHA findings by means of a letter dated December 10, 2003, transmitted to the Office of Administrative Law Judges (“OALJ”) by facsimile on December 11, 2004.

The case was initially assigned to Judge Robert L. Hillyard, who issued a Notice of Hearing and Pre-hearing Order setting the claim for hearing on October 25, 2005. Ms. Johnson changed counsel, and her current attorney filed an appearance on her behalf on April 29, 2005. The parties agreed to a continuance of the hearing sought by the Complainant, and requested that it be re-scheduled for December 5, 2005. Judge Hillyard granted the continuance and cancelled the October hearing, extending the date for the close of discovery contained in the pre-hearing order. Thereafter, the case was reassigned to me due to Judge Hillyard’s pending retirement. The Complainant sought a further extension of the schedule, which the Respondent opposed. I held a telephone conference on December 13, 2005, and issued an order extending discovery, setting a schedule for proceedings on the Respondent’s anticipated motion for summary judgment, and setting a hearing date of March 13, 2006. After an additional telephone conference held on January 12, 2006, the schedule was again extended, with new interim deadlines for discovery and motions, and the hearing to start on May 15, 2006.

On March 23, 2006, the Respondent filed two motions for summary decision, one on the merits, and the other on jurisdictional grounds, as to whether SBT, as a non-publicly traded subsidiary of a publicly traded parent company, could be covered by the Sarbanes-Oxley Act.

On April 3, 2006, the Complainant filed a motion to amend her complaint to add Siemens Corporation and Siemens AG as Respondents to the claim.

All three motions were fully briefed by the parties. During a telephone conference held on May 9, 2006, I ruled on the pending motions. A transcript of that conference is part of the record. I granted the Complainant’s motion to amend the complaint in part by adding Siemens AG as a party, on the grounds that it had been named during the proceedings before OSHA, and had been served with the OSHA findings and all notices from the Office of Administrative Law Judges, even though not named in the caption. I denied the motion in part, declining to add Siemens Corporation as a party, because it had never been named or served as a party until the Complainant filed her motion to amend the complaint. As a result, I found the motion to amend untimely as to Siemens Corporation.

As to the Respondent’s motions for summary decision, I denied both motions. I denied the motion for summary decision on the merits on the ground that there were genuine issues of

material fact on the merits of the claim. I also denied the motion for summary decision on jurisdictional grounds, observing that there was no case law from the Administrative Review Board or the Courts on the liability of a parent company for violation of the Act by a subsidiary, and there was a split in the decisions from Administrative Law Judges on this issue: some Judges had required a special factual showing of unitary operations to hold a parent liable for violation of the Act by a subsidiary, while others had not required such a factual showing. I advised the parties that if future case law should determine that a factual showing is required, the burden would be on the Complainant to establish that the non-publicly traded subsidiary is a covered company.

I conducted a hearing on the claim on May 15-19, and July 18-21, 2006, in St. Paul, Minnesota. All parties were afforded a full opportunity to present evidence and argument, as provided in the Rules of Practice and Procedure before the Office of Administrative Law Judges, 29 CFR Part 18. At the hearing, the following exhibits were admitted into evidence, either without objection, or over the other party's objection:¹ Complainant's Exhibits ("CX") 1, 4-7, 10, 14, 17, 18, 21, 22, 27, 32, 35, 53, 57, 58, 68, 79, 82, 84, 88-90, 92, 102, 103, 110-112, 154, 157, 158, 160, 201, 222, 226, 228, 230, 234, 259, 259A, 261A, 289 (except handwritten entries), 290, 299, 300, 303, 318-320, 328, and 350; Respondent's Exhibits ("RX") 1-16, 18, 20-33, 37, 52, 58-60, 63, 69, 74,75, 77, 81, 83, 84, 88, 92, 93, 99-102, 109, 111-113, 116-119, 130, 132, 136, 137, 137A, 143, 148, 157-160, 162-168, 171, 173, 178, 182-184,186, 188, 190, 193, 194, 196, 197, 206-219, 222, 225, 229, 230, 234, 241, 247, 249A, 253-259, 261-265; and Administrative Law Judge Exhibit ("ALJX") A. CX 3, 46, 63, 87, 132, 139, 196, 221, 329, and 350 were excluded from evidence. The witnesses were separated and, therefore, did not hear each others' testimony. Transcript ("Tr.") at 4. The record was held open after the hearing to allow the Complainant to submit the Department of Labor's investigative file as an exhibit; for the parties to designate or brief objections to designations from depositions of witnesses who did not testify at the hearing (Michael Fenton, Craig Lamfers, and Susan Forte); and for the parties to file post-hearing motions and briefs. After the hearing had commenced, the Administrative Review Board issued its decision in the case of *Klopfenstein v. PCC Flow Technologies Holdings, Inc.*, USDOL/OALJ Reporter (PDF), ARB No. 04-149, ALJ No. 04-SOX-11 (ARB May 31, 2006), addressing the issue of liability of a publicly traded parent for a violation of the Act by a non-publicly traded subsidiary. For this reason, I determined that post-hearing briefing should occur in two stages. I directed the parties to brief coverage issues first. Briefing on the merits of the claim was to be postponed until after ruling on the Respondent's post-hearing motion regarding coverage of the Act. Tr. 2378-2382, 2531-2543.

SBT filed a Motion for Judgment as a Matter of Law on September 18, 2006, alleging that Siemens AG is not a proper party to the action; that its non-public subsidiary SBT should not be held liable for a violation of the Act; and that there is no evidence that SBT acted as an agent of Siemens AG in discharging Ms. Johnson. SBT also argued that Ms. Johnson adduced no evidence at hearing that she engaged in protected activity, that SBT was aware of her alleged protected activity, or that her alleged protected activity contributed to the decision to terminate her employment.

¹ Exhibit numbers missing from sequence and not listed as having been excluded were either not offered, or withdrawn.

The Complainant sought three extensions, of a few days each, to reply to Respondent's motion. On October 11, 2006, I issued an Order Granting Respondents' request to Deny Further Extensions of Time for the Complainant to File a Response to their Motion for Judgment as a Matter of Law. On October 13, 2006, I denied the Complainant's request for reconsideration of that order. The Complainant took an interlocutory appeal of those orders to the Administrative Review Board. The Administrative Review Board denied the interlocutory appeal. *Johnson v. Siemens Building Technologies, Inc.*, ARB Case No. 07-010, ALJ Case No. 2005-SOX-15 (ARB January 19, 2007).

Under cover of letter dated January 25, 2007, the Complainant submitted a certified copy of the Department of Labor's Investigative File as a proposed exhibit, and requested five business days to file additional outstanding evidence. The Respondent did not object to admission of the investigative file, but objected to any additional evidence being submitted. The investigative file was admitted into evidence as CX 346 by Order dated February 15, 2007. By Order dated February 5, 2007, all other pending evidentiary matters were held in abeyance pending my ruling on the Motion for Judgment as a Matter of Law.

In reaching my decision, I have reviewed and considered the entire record, including all exhibits admitted into evidence, the testimony at hearing, and the arguments of the parties, including the arguments submitted during proceedings on the Respondent's motions for summary decision. I have also reviewed the evidence submitted to date, admission of which is still in dispute, and find that it is unnecessary to rule on the objections or refer to the evidence, as it is not material to the issue on which this decision turns.

ISSUE ADDRESSED IN THIS DECISION AND ORDER

The only issue addressed in this Decision and Order is whether SBT is a company covered by the Sarbanes Oxley Act by virtue of it or its employees having acted as an agent of Siemens AG when Ms. Johnson was discharged from employment. As I have found that SBT is not a covered company, I need not address the other issues raised by the Respondent in its Motion for Judgment as a Matter of Law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Sarbanes-Oxley Act prohibits covered employers and individuals from retaliating against employees for providing information or assisting in investigations related to violations of listed laws and SEC rules. That prohibition applies to companies:

... with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. § 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), **or any officer, employee, contractor, subcontractor, or agent** of such company ...

18 U.S.C. § 1514(A)(a) (emphasis added).

The Administrative Review Board's decision in the *Klopfenstein* case cited above concerned the claim of a Vice-President of Operations for Flow Products, Inc., a division of PCC Flow Technologies, LP, a limited partnership wholly owned by PCC FT I LLC and PCC FTII

LLC; in turn, wholly-owned subsidiaries of PCC Flow Technologies Holdings, Inc.; in turn, a wholly-owned subsidiary of Precision Castparts Corp. The ultimate parent company, Precision Castparts Corp., is a company with a class of securities registered under Section 12 of the Securities and Exchange Act of 1934 and, therefore, subject to the Sarbanes-Oxley Act. In *Klopfenstein*, the Complainant had failed to name the parent as a Respondent. The Administrative Review Board did not find this omission fatal to the claim, however, stating:

... [W]e do not interpret the Act to require a complainant to name a corporate respondent that is itself ‘registered under § 12 or ... required to file reports under § 15(d),’ so long as the complainant names at least one respondent who is covered under the Act as an ‘officer, employee, contractor, subcontractor, or agent’ of such a company.

Slip op. at 13. The Board went on to state,

Whether a particular subsidiary or its employee is an agent of a public parent for purposes of the SOX employee protection provision should be determined according to principles of the general common law of agency. ... Although it is a *legal concept*, ‘agency depends upon the existence of required *factual elements*: the manifestation by the principal that the agent shall act for him, the agent’s acceptance of the undertaking and the understanding of the parties that the principal is to be in control.’

Slip op. at 14 (citations omitted). The Board said that the function of the Administrative Law Judge “is to ascertain whether these factual elements are present,” slip op. at 15, and found that in the decision below, the Judge had failed to make the requisite findings. The Board, therefore, remanded the case, in part, for the Judge to make factual findings necessary to properly apply agency principles in determining whether the named respondents (PCC Flow Technologies Holdings, Inc., and Allen Parrott) were the parent company’s agents with regard to the termination of the complainant’s employment. Slip op. at 16. On remand, the Judge found that the requisite agency relationship had been established because the facts showed that the two entities (PCC Flow Technologies Holdings, Inc., and Precision Castparts Corp.) shared executives, and the executives of the parent had participated in the employment decision relating to the complainant. *Klopfenstein v. PCC Flow Technologies Holdings, Inc.*, ALJ Case No. 2004-SOX-11 (ALJ Oct. 13, 2006).

Since the Administrative Review Board’s decision in *Klopfenstein*, at least one District Court has cited it in support of the proposition that common law agency principles apply in determining whether a non-publicly traded subsidiary (DaimlerChrysler Corp.) was acting as an agent for the publicly traded parent (DaimlerChrysler AG). *Rao v. DaimlerChrysler Corp.*, 2007 WL 1424220 at *5 (E.D. Mich. 2007). In that case, although discovery was not complete, there were “no allegations whatsoever that anyone at DaimlerChrysler AG even knew of the decisions regarding Plaintiff’s employment, much less took part in those ground-level decisions.” *Ibid*. Rao’s SOX claim was dismissed. In the case at hand, not only has discovery been completed, but also the hearing has been held. Not only were there no allegations in the complaint that anyone at Siemens AG knew of the decision regarding Ms. Johnson’s employment, but also there is no evidence in the record that anyone at Siemens AG had such knowledge, or participated in the decision. For this reason, I find that the claim should be dismissed.

The facts pertaining to my conclusion are essentially undisputed. SBT provides engineering services relating to construction and maintenance of industrial and commercial buildings. It is headquartered in Buffalo Grove, Illinois. At all times relevant to this claim, it had three divisions: Fire Safety, headquartered in Florham Park, New Jersey; Security; and, Building Automation. CX 346; RX 12; Fenton Deposition. Ms. Johnson was hired by SBT in February 2002 to be the Branch Administrator of its Roseville, Minnesota, Fire Safety Division office. RX 81.² Although the precise sequence of events is disputed, as well as the reason for the actions taken by SBT management, the record is clear that Ms. Johnson received a poor performance evaluation in November 2003. CX 157; RX 2, 6; Johnson, Tr. 887-888, 890-893, 896. After consultations among Joe Schmit, Operations Manager of the Roseville Branch, Scott Salazar, the out-going Branch Manager, and others, SBT instituted a Performance Improvement Plan for Ms. Johnson in late 2003 or early 2004. CX 157, 318; RX 3, 4, 100, 136; Johnson, Tr. 478-479, 482, 484, 506-508, 897-898, 1227; Salazar, Tr. 1391-1392, 1399; Schmit, Tr. 1784-1785, 1796-1797, 2024; Fenton Deposition. The decision to discharge Ms. Johnson was reached in late February or early March 2004. Recommendations for discharge require approval from the Department Director or Manager, and the Director of Human Resources. See RX 100. Mr. Schmit, Craig Lamfers, the new Branch Manager, Joe Krisch, the Human Resources Manager, and Tom Schlesinger, Director of the West Region of the Fire Safety Division, all employees of SBT, concurred that Ms. Johnson should be terminated, and Mr. Lamfers discharged her on March 10, 2004. RX 8; Johnson, Tr. 933-934; Lamfers Deposition (Respondent's designations); Schmit, Tr. 1817, 1930; Krisch, Tr. 2050-2051, 2054; Schlesinger, Tr. 2174.

On June 8, 2004, an attorney mailed a complaint to OSHA on Ms. Johnson's behalf, alleging that SBT had terminated her in violation of the Sarbanes-Oxley Act because she made reports of suspected fraudulent and illegal activity. OSHA received the complaint on June 14, 2004. SBT was the only respondent named in the complaint. In her complaint, Ms. Johnson identified numerous individuals who interviewed her for employment, offered her employment, trained her, supervised her, participated in suspected fraudulent and illegal activity, or to whom she complained of the suspected fraudulent and illegal activity, or who were responsible for giving her poor performance reviews and terminating her. All of the individuals named in her complaint, many whom testified at the hearing or by way of deposition, were employees of SBT. CX 346. See also, the Complainant's answers to interrogatories before OALJ, RX 224, the organization chart for the Roseville office prepared by Scott Salazar, RX 254, and the accompanying testimony, Tr. 1283-1288, 1464.

The Area Director of OSHA issued notice of the complaint to SBT and Mr. Lamfers on June 18, 2004. He listed four parties to the complaint: Siemens Building Technologies, Inc., Siemens AG, Mr. Lamfers, and Ms. Johnson. It appears from the investigative file that the investigator identified Siemens AG from a corporate directory. In a letter dated June 18, 2004, in response to an inquiry from the OSHA investigator, Ms. Johnson's counsel identified Siemens Building Technologies, Inc., as a division of Siemens AG, a publicly traded company on the New York Stock Exchange, with its corporate headquarters in Munich, Germany. CX 346. An attorney for SBT wrote to the investigator on June 23, 2004, denying that SBT is a division of

² Ms. Johnson's last name at the time she was hired was Schilling. She married in December 2003, at which time she changed her name to Johnson.

Siemens AG, and taking the position that because SBT and its immediate parent, Siemens Corporation, are not publicly traded companies, the Department of Labor did not have jurisdiction under the Sarbanes-Oxley Act. OSHA issued notice of the complaint to Siemens AG on July 6, 2004. CX 346.

On November 15, 2004, the Regional Administrator for OSHA issued his findings on the complaint on behalf of the Secretary of Labor. The Administrator found that Siemens Building Technologies, Inc., headquartered in Buffalo Grove, Illinois, is a subsidiary of Siemens Corporation, which is a subsidiary of Siemens AG; that Siemens AG is a publicly traded entity; and that the Respondent is a company within the meaning of Sarbanes-Oxley. The findings regarding the parent-subsidiary relationships are supported by the evidence admitted at the hearing. *See, e.g.,* Krisch, Tr. 2036-2037. The Administrator found no reasonable cause to believe that the Respondent discharged Ms. Johnson in retaliation for protected activity. CX 346. When the claim was received by the OALJ, it was captioned as “Carri S. Johnson v. Siemens Building Technologies, Inc.,” Case No. 2005-SOX-15. The service sheet for documents issued by OALJ included both SBT and Siemens AG as addressees from the outset.

An Affidavit of Daniel Hislip, the Corporate Secretary for SBT, originally submitted in support of Respondent’s motion for summary decision, is appended to the Respondent’s motion for judgment as a matter of law as Exhibit D. In his affidavit, Mr. Hislip stated:

3. SBT has no class of securities registered under Section 12 of the Securities Exchange Act, nor is SBT required to file reports under Section 15(d) of the Securities Exchange Act.
4. SBT’s parent company, Siemens Corporation, has no class of securities registered under Section 12 of the Securities Exchange Act, no[r] is Siemens Corporation required to file reports under Section 15(d) of the Securities Exchange Act.
5. Siemens Corporation is the holding company for all Siemens operating companies in the United States.
6. Siemens AG, a global company domiciled in Germany, is the ultimate parent of both Siemens Corporation and SBT.
7. SBT has its own board of directors and makes its own management and personnel decisions. Siemens AG is not involved in the management and personnel decisions of SBT.

There is no evidence in the record which contradicts this explanation of the corporate relationships and whether the various corporate components are publicly traded. Nor is there any evidence in the record that any of the SBT employees who participated in the decision to fire Ms. Johnson was an officer, employee, contractor, subcontractor, or agent of Siemens AG. Siemens AG concedes that it is subject to the requirements of the Sarbanes-Oxley Act, and requires any accounting-related complaints originating from any subsidiaries’ employees to be reported to the Siemens Corporate Officer for Compliance in Munich. *See* CX 289; RX 259. Thus, while SBT is not a publicly traded company, its ultimate parent, Siemens AG is a publicly traded company subject to regulation by the SEC. Under the principles announced by the

Administrative Review Board in *Klopfenstein*, however, SBT is covered by the Sarbanes-Oxley Act only if it or its employees were acting as an agent for Siemens AG when Ms. Johnson was fired.

Siemens AG denies that it controls employment decisions at SBT, or that it had any role in the termination of Ms. Johnson's employment. There is no evidence in the record to the contrary. All of the individuals Ms. Johnson identified as persons she notified of fraudulent and illegal practices at the Roseville Branch were employed by SBT. *See* the OSHA complaint, CX 346; Complainant's answers to interrogatories before OALJ, RX 224; and the organization chart for the Roseville office prepared by Mr. Salazar, RX 254. Similarly, all of the persons identified as having any role in decisions relating to her employment and termination by SBT, were also employees of SBT. There is no evidence in the record that any complaint by Ms. Johnson about accounting irregularities, i.e., irregularities in booking jobs and fraudulent billing or otherwise "questionable business practices," Johnson, Tr. 605, was reported to Siemens AG while she was employed at SBT. There is no evidence in the record that the two companies share common directors or management. There is no evidence in the record that anyone from Siemens AG was aware of Ms. Johnson's concerns about business practices at the Roseville office, her job performance, or the decisions to place her on a performance improvement plan and terminate her employment, until after she was fired, when Siemens AG was served with her complaint by OSHA.³ Nor is there any evidence that anyone from Siemens AG was consulted or participated in the decisions to put her on a performance improvement plan or terminate her employment. *See, e.g.*, testimony by Salazar, Tr. 1279; Schmit, Tr. 1748-1749; Fenton Deposition; Lamfers Deposition (Respondent's designations); Krisch, Tr. 2035-2036; Schlesinger, Tr. 2154. Personnel policies and forms in evidence, including the forms relating to Ms. Johnson's employment, support the proposition that personnel matters for the two companies are kept separate, as the policies and forms are labeled as being from SBT, and not Siemens AG. *See, e.g.*, CX 85, CX 228, CX 230, CX 320, RX 1, RX 2, RX 11, RX 21, RX 23, RX 26, RX 27, RX 88, RX 225.

The state of the evidentiary record on this issue is essentially unchanged since the proceedings on the Respondent's motion for summary decision on jurisdictional grounds. There was then, and is now, no evidence in the record that SBT, or anyone employed by SBT, was acting as an agent of Siemens AG in terminating Ms. Johnson's employment. The state of the law, however, has changed since the Respondent's motion for summary decision was denied. Under *Klopfenstein*, absent evidence that either SBT, a non-publicly traded subsidiary of a publicly traded parent, or any of its employees, was acting as an "officer, employee, contractor, subcontractor or agent" of Siemens AG when Ms. Johnson was fired, SBT is not a company covered by the Sarbanes-Oxley Act.

³ Ms Johnson was uncertain as to the precise identity of her employer. *See* Tr. 1163-1165. She testified that during her employment she received newsletters from and had an exchange of e-mail correspondence with Klaus Kleinfeld, who she believed was the CEO in Germany, regarding her sons' service in Iraq. Tr. 1165-1166. This testimony is insufficient to establish that SBT or its employees were acting as an agent of Siemens AG in making decisions about her employment.

ORDER

Because the Complainant has failed to establish that Respondent Siemens Building Technologies, Inc., or its employees were acting as agents of Siemens AG in firing her, SBT is not covered by the Sarbanes Oxley Act; Siemens AG cannot be held liable for the actions of SBT or its employees respecting her employment; and, the complaint filed with the Occupational Safety and Health Administration on June 14, 2004, must be, and hereby is, dismissed.

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ALICE M. CRAFT
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review (“Petition”) with the Administrative Review Board (“Board”) within ten (10) business days of the date of the Administrative Law Judge’s decision. *See* 29 C.F.R. § 1980.110(a). The Board’s address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, D.C., 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. *See* 29 C.F.R. § 1980.110(c). Your Petition must specifically identify the findings, conclusions, or orders to which you object. Generally, you waive any objections you do not raise specifically. *See* 29 C.F.R. § 1980.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, D.C., 20001-8002. The Petition must also be served on the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, D.C., 20210.

If no Petition is timely filed, the Administrative Law Judge’s decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1980.109(c). Even if you do file a Petition, the Administrative Law Judge’s decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days after the Petition is filed 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).