

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 15 March 2006

CASE NO. : 2006-SOX-35

IN THE MATTER OF:

PHILIP W. GREEN

Complainant

v.

SERVICE CORPORATION INTERNATIONAL

Respondent

ORDER OF DISMISSAL

This case arises under the Sarbanes-Oxley Act of 2002, technically known as the Corporate and Criminal Fraud Accountability Act, P.L. 107-204 at 18 U.S.C. § 1514A *et seq.* (herein the Act), which provides protection for whistleblowers who are employees of publicly traded companies by permitting them to file a complaint with the Secretary of Labor. However, the Act further provides that the complainant may file a complaint for **de novo** review in the appropriate United States District Court "if the Secretary [of Labor] has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the [complainant]." 18 U.S.C. § 1514A(b)(1).

On March 14, 2006, Complainant, Philip W. Green, filed a Motion To Dismiss his administrative complaint in the above-captioned matter because he has filed a complaint in the United States District Court for the Southern District of Texas as Civil Action H-06-833 asserting the same claims for relief.

Since this case has been removed to the United States District Court, this Office no longer has jurisdiction over the matter. Accordingly, after due consideration,

IT IS HEREBY ORDERED that Complainant's Motion to Dismiss be **GRANTED**, and this matter be **DISMISSED**.

ORDERED this 15th day of March, 2006, at Covington, Louisiana.

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LEE J. ROMERO, JR.
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, 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. 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, DC 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, DC 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).

