

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 13 October 2010**

Case No.: 2010-SOX-00044

In the Matter of

**MICHAEL C. LOSCALSO**  
Complainant

v.

**AMERIPRISE FINANCIAL, INC. and  
AMERIPRISE FINANCIAL SERVICES, INC.**  
Respondent

**ORDER OF DISMISSAL**

This matter arises out of a retaliation complaint filed pursuant to the employee protection provisions of 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. § 1514(A) (“SOX”). Governing regulations are at 29 C.F.R. Part 1980.

Under 29 C.F.R. § 1980.110(a), the Administrative Review Board has been delegated to act for the Secretary and issue final decisions. When the Secretary has not issued a final decision within 180 days of the filing of the original complaint and the delay is not due to the bad faith of the employee, the employee is authorized to file an action for *de novo* review in the appropriate United States District Court. 18 U.S.C. § 1514A(b)(1)(B).

On August 6, 2010, counsel for Claimant notified me that he intended to file an original action in District Court. By order dated August 9, 2010, I held this matter in abeyance pending such a filing, and directed Complainant to provide a copy of the complaint as evidence that the matter has been accepted by the appropriate court. Claimant filed a complaint with the United States District Court for the Eastern District of Pennsylvania on October 8, 2010 and has forwarded a copy to this office.

The filing of an action in United States District Court deprives the Office of Administrative Law Judges of jurisdiction. See Stone v. Duke Energy Corp., 432 F.3d 320 (5<sup>th</sup> Cir. 2005; see also Kelly v. Sonic Automotive, Inc., ARB No. 08-027 (Dec. 17, 2008). I therefore order the instant matter **DISMISSED**.

SO ORDERED.

**A**

**THERESA C. TIMLIN**  
Administrative Law Judge

Cherry Hill, New Jersey