

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 17 February 2011

CASE NO: 2011-SOX-8

In the Matter of:

JASON L. NIEMAN,
Complainant

v.

NATIONWIDE MUTUAL INSURANCE,
Respondent

ORDER GRANTING COMPLAINANT'S MOTION TO DISMISS WITH PREJUDICE

Complainant, Jason L. Nieman, on November 15, 2010, filed with the Office of Administrative Law Judges a request for hearing and objections to the findings of the Assistant Secretary of Labor under the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A.

Complainant, by facsimile transmission received on February 10, 2011, requests a voluntary dismissal of his request for hearing and objections with prejudice. Complainant's request states that the parties met before Magistrate Judge Byron Cudmore and entered a binding settlement as to the matter at 3:09 CV 03304, pending in the Central District of Illinois Federal Court, which settlement calls for voluntary dismissal of all related litigation and administrative matters with prejudice.

29 C.F.R. § 1980.111(c) provides that at any time before the findings or order become final, a party may withdraw his or her objections to the finding or order by filling a written withdraw with the administrative law judge, and that the judge will determine whether to approve the withdraw. The regulation provides further that if the objection is withdrawn because of settlement, the settlement will be submitted for approval to the judge.

As Complainant has withdrawn his complaint in consideration of a settlement agreed to before, and overseen by, a federal magistrate judge in a different but related matter, Complainant's objections are considered as withdrawn without necessitating approval of

settlement by an administrative law judge.

ORDER

In consideration of the aforesaid, IT IS HEREBY ORDERED that the Complainant's withdrawal of objections is approved and this case is dismissed with prejudice. IT IS FURTHER ORDERED that the November 3, 2010 Findings of the Assistant Secretary of Labor constitute the final order of the Secretary of Labor.

A
THOMAS M. BURKE
Administrative Law Judge