

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 15 May 2012

CASE NO: 2012-SOX-00018

In the Matter of:

MICHAEL BOYD,
Complainant,

v.

ACCURAY, INC.,
Respondent.

ORDER DISMISSING MATTER

This proceeding arises under 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. § 1514A (SOX), and the procedural regulations found at 29 C.F.R. Part 1980 (2011). The matter is not yet set for trial.

On April 27, 2012, an Order to Show Cause was issued as to why this matter should not be dismissed since it appeared that Complainant had filed his matter in district court pursuant to 29 C.F.R. § 1980.114(a). On May 11, 2012, Martin Homec, attorney for Complainant, filed a response indicating that Complainant had filed in district court and agreeing that the matter should be dismissed. Respondent did not respond.

On November 3, 2008, Complainant filed a SOX complaint with the Occupational Safety and Health Administration (OSHA) alleging that he was terminated from Respondent on October 30, 2008, for engaging in protected activity. OSHA issued its final report of investigation on March 16, 2012, denying his claim. The Board has not issued a final decision within 180 days of the filing of the complaint at OSHA since the investigative report was not completed until over three years after filing and a hearing has not been held in this Office. Further, there is no showing that the delay is due to bad faith on the part of Complainant.

Pursuant to 29 C.F.R. § 1980.114(a), the matter is dismissed. All dates are vacated. This matter is closed.

SO ORDERED.

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RICHARD M. CLARK
Administrative Law Judge

San Francisco, California

