



Issue Date: 29 May 2014

Case No.: 2014-SOX-00023

In the Matter of

TARUN KSHETRAPAL
Complainant

v.

DISH NETWORK LLC
D/B/A DISH NETWORK
Respondent

DECISION AND ORDER OF DISMISSAL

The above-captioned case arises under the whistleblower protection provisions of the Sarbanes-Oxley Act (“SOX”). *See* 18 U.S.C. §1514A. Tarun Kshetrapal (“Complainant”) alleged that he was blacklisted by DISH Network, LLC (“DISH”), Izabella Slowikowska and Vikas Arora (collectively, “Respondents”) resulting in the rescission of a job offer. On March 3, 2014, the Occupational Health and Safety Administration (“OSHA”) issued the Secretary’s Findings that there was reasonable cause to believe Respondent violated SOX.

Respondent filed its objections to the Secretary’s Findings, and the matter was docketed at the Office of Administrative Law Judges. The matter was assigned to me on April 10, 2014. On April 18, 2014, I noticed a hearing to begin in New York, NY on August 28, 2014.

By letter dated May 16, 2014, Complainant, through his counsel, filed notice that Complainant elected to pursue the instant matter in federal district court. I note that Congress has provided complainants an option to bring an action in the district court when the Secretary has not issued a final decision within 180 days of the filing of the complaint so long as there is no showing that the delay was due to the bad faith of the complainant. 18 U.S.C. §1514A(b)(1)(B); 29 C.F.R. §1980.114.

By letter dated May 19, 2014, Complainant provided a copy of the file-stamped complaint he filed in the United States District Court for the Southern District of New York against the Respondents, seeking relief, in part, under SOX.

I find that the record shows Complainant has met the statutory and regulatory prerequisites for filing a civil action in federal district court. He filed his complaint with OSHA

on August 11, 2011. More than 180 days have passed since then, and the Secretary has not issued a final decision. There is no evidence of record that any delay in case processing resulted from Complainant's bad faith conduct.

Accordingly, this matter is DISMISSED before the OALJ in its entirety as to all parties and all claims without prejudice based on Complainant's election to pursue the matter in the federal district court. 18 U.S.C. §1514A(b)(1)(B); 29 C.F.R. §1980.114.

IT IS SO ORDERED.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey