



Issue Date: 28 October 2019

CASE NO.: 2014-SOX-45

IN THE MATTER OF

MARK ROSS

Complainant

v.

KIOR, INC.

Respondent

ORDER DISMISSING CASE

On December 20, 2014, this matter was stayed pursuant to the Bankruptcy Code's automatic stay provisions by an Order Granting Stay.

The Order Granting Stay also ordered Respondent to provide the undersigned and Complainant with a status report on the bankruptcy proceedings every three (3) months until the stay is lifted. To date, over four years since the Stay Order issued, no status report has been filed by Respondent.

On October 22, 2018, an Order Directing Compliance with the Order Granting Stay issued to Respondent, however no response has been filed.

On June 26, 2018, the U.S. Bankruptcy judge for the District of Delaware issued an Order Granting Final Decree Closing the Chapter 11 Case of KiOR, Inc. and terminating claims and Noticing Service in Case No. 14-12514(CSS).

Accordingly, the stay which went into effect on December 20, 2014, is no longer in effect in view of the closure of the bankruptcy case.

On May 13, 2019, Complainant and Respondent were ordered to file a detailed status report no later than May 31, 2019, as directed setting forth the progress of the bankruptcy proceeding since December 29, 2014, and whether Complainant seeks to continue this case in its present status, as well as the status of the instant case. Neither party has filed a response to the Order.

On June 24, 2019, an Order issued to Complainant to show cause, if any there be, no later than July 15, 2019, why this case should not be dismissed for failure to prosecute and/or abandonment of the complaint and request for hearing. Complainant was advised that in the absence of a response, this matter would be dismissed.

Counsel for Complainant duly received the Certified-Mail Order to Show Cause. The Order was also mailed by regular mail and Certified Mail to Complainant. Neither Counsel for Complainant nor Complainant has filed a response to the Show Cause Order.

In view of the foregoing, Complainant's case is hereby **DISMISSED**.

ORDERED this 28th day of October, 2019, at Covington, Louisiana.

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 fourteen (14) days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (e-File) permits the submission of forms and

documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; 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(a). Your Petition should identify the legal conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. See 29 C.F.R. § 1980.110(a).

When 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. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. See 29 C.F.R. § 1980.110(a).

If filing paper copies, you must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and you may file an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which

the appeal is taken, upon which you rely in support of your petition for review. If you e-File your petition and opening brief, only one copy need be uploaded.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and may include an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies. If you e-File your responsive brief, only one copy need be uploaded.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board. If you e-File your reply brief, only one copy need be uploaded.

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(e) and 1980.110(b). Even if a Petition is timely filed, 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 of the date the Petition is filed notifying the parties that it has accepted the case for review. See 29 C.F.R. § 1980.110(b).