



Issue Date: 09 March 2016

CASE NO.: 2016-SOX-00011

In the Matter of:

MELVIN GLAPION,
Complainant,

vs.

KROLL ASSOCIATES, INC. AND
KROLL, INC.,
Respondents.

ORDER DISMISSING MATTER

This matter arises under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002 (the “Sarbanes-Oxley Act” or “SOX”), codified as 18 U.S.C. § 1514A, and the regulations of the Secretary of Labor published at 29 C.F.R. Part 1980. The matter is set for hearing on April 20-22, 2016, in Long Beach, California.

On March 8, 2016, I received a letter from Complainant requesting to dismiss the pending action because a final decision has not been issued by the Secretary within 180 days of his filing the complaint with the Occupational Safety and Health Administration (“OSHA”). 29 C.F.R. § 1980.114(a).¹ He filed a complaint in District Court on February 5, 2016, and attached copy of the District Court complaint to his request. 29 C.F.R. § 1980.114(b).

Complainant filed his complaint with OSHA on September 1, 2015, and OSHA issued its findings denying his claim on October 20, 2015. The appeal was received for hearing in this Office on November 23, 2015. The 180 day time period expired on or about February 29, 2016. Further, there has been no showing that the delay was due in any part to bad faith by Complainant. 29 C.F.R. § 1980.114(a). In addition, I held a conference call with the parties to discuss this matter on February 26, 2016, and Respondent agreed that the delay was not due to bad faith on the part of Complainant.

¹ 29 C.F.R. § 1980.114(a) provides: If the Secretary has not issued a final decision within 180 days of the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which will have jurisdiction over such an action without regard to the amount in controversy. A party to an action brought under this paragraph shall be entitled to trial by jury.

Pursuant to Complainant's request, this matter is dismissed. He has exercised his option to pursue this matter in federal court. All dates are vacated.

SO ORDERED.

RICHARD M. CLARK
Administrative Law Judge

San Francisco, California