

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 10 December 2015

Case Number: 2016-SOX-00014

In the Matter of:

JUDITH MOKHIBER,
Complainant,

v.

HSBC BANK USA, N.A.
Respondent.

ORDER ADMINISTRATIVELY CLOSING CASE

This matter arises under the employee protection provisions in Section 806 of the Sarbanes-Oxley Act of 2002, codified at 18 U.S.C. § 1514A (“SOX” or “the Act”), and applicable regulations issued at 29 C.F.R. Part 1980 (2010). On November 17, 2014, Judith Mokhiber (“Complainant”) filed a formal complaint with the U.S. Department of Labor (“DOL”), Occupational Safety and Health Administration (“OSHA”), alleging HSBS Bank USA (“Respondent”), retaliated against her in violation of the Act. On October 2, 2015, OSHA notified Complainant that it was dismissing her complaint because she had “elect[ed] to proceed with [her] case in Federal Court, rather than before the Secretary of Labor.” Complainant then filed a *Request for Hearing and Objections to Order* with the U.S. Department of Labor, Office of Administrative Law Judges (“Office”) on December 1, 2015. On December 4, 2015, counsel for OSHA indicated by letter to this Office that its October 2, 2015 notification to Complainant “did not communicate any decision on the merits” and it “simply informed Complainant that OSHA would be taking no further action on the case based on OSHA’s understanding that Complainant wished to proceed in federal court.” The letter further stated that since Complainant did not actually file an action in federal court, OSHA had alerted the parties that it will be investigating and issuing findings.¹

This Office has jurisdiction pursuant to 29 C.F.R. Part 1980 only after OSHA issues findings as to whether or not there is reasonable cause to believe that the Respondent has violated the Act by retaliating against a complainant. Given that OSHA is still investigating Ms. Mokhiber’s complaint and has not yet issued findings, this matter is not yet ripe for review by this Office. Accordingly, this case is hereby removed from the docket and administratively closed.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

¹ On December 4, 2015 Complainant’s counsel also informed this Office by telephone that OSHA had indicated that it would be reopening its investigation.