

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 18 September 2017

CASE NO.: 2017-SOX-35

IN THE MATTER OF

ELISABETH PAUL

Complainant

v.

CISCO SYSTEMS, INC.

Respondent

DECISION AND ORDER OF DISMISSAL

This case arises under the Sarbanes-Oxley Act of 2002, technically known as the Corporate and Criminal Fraud Accountability Act, P.L. 107-204 at 18 U.S.C. § 1514A *et seq.* (herein the Act), which provides protection for whistleblowers who are employees of publicly traded companies by permitting them to file a complaint with the Secretary of Labor. However, the Act further provides that the Complainant may file a complaint for **de novo** review in the appropriate United States District Court "if the Secretary [of Labor] has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the [Complainant]." 18 U.S.C. § 1514A(b)(1).

On September 1, 2017, Complainant advised since no final decision has been entered in this matter within 180 days of the filing of her Complaint, she has filed a complaint in the U.S. District Court of the Eastern District of Texas.

Once a Complainant files a claim with District Court, pursuant to Section 1514A(b)(1)(B) of the Act, an Administrative Law Judge no longer has jurisdiction over the matter. Stone v. Duke Energy Corp., 432 F.3d 320 (4th Cir. 2005) (case below 2003-SOX-12).

Accordingly, the pending proceeding before this office is hereby **DISMISSED** without prejudice.

The formal hearing scheduled for November 7, 2017, in Dallas, Texas is **CANCELLED**.

ORDERED this 18th day of September, 2017, 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 (eFile) 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).