



Issue Date: 09 April 2019

Case No.: 2018-SOX-00037

In the Matter of:

MARTIN CONROY

Complainant

v.

AFLAC, INC., ET AL

Respondent

**ORDER GRANTING WITHDRAWAL OF HEARING REQUEST, CANCELING
HEARING AND DISMISSING THE CASE**

The above-captioned matter has been docketed for a hearing before the United States Department of Labor, Office of Administrative Law Judges (“OALJ”) pursuant to Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (“SOX”), as amended, 18 U.S.C. § 1514A, and the implementing regulations at 29 C.F.R. Part 1980. The Rules of Practice and Procedure for Administrative Hearings before the OALJ which are found at 29 C.F.R. Part 18, Subpart A also apply.

Martin Conroy (“Complainant”) filed a complaint with the Occupational Health and Safety Administration (“OSHA”) against Aflac, Inc., American Family Life Insurance Co. of Columbus, Ken Meier, Trevor Fennell, and Rick Whelan (“Respondents”) alleging that he was subject to retaliatory termination of his employment on August 17, 2016 in violation of SOX for reporting his allegations of fraud regarding insurance applications on or about November 21, 2014.

Upon completing its investigation of the complaint, OSHA issued a letter dated June 28, 2018, outlining the Secretary’s Findings and informing Complainant (via his counsel) that his complaint was dismissed because there was no reasonable cause to believe a SOX violation had occurred. By letter dated July 26, 2018 which OALJ received on July 27, 2018, Complainant, through his counsel, filed his objections to OSHA’s dismissal and the Secretary’s Findings, as well as his request for a de novo hearing before the OALJ.

By fax dated April 5, 2019, Complainant, through his counsel, submitted a document entitled “Notice Of Voluntary Withdrawal Of The Complaint,” (“Notice”) stating that Complainant “voluntarily withdraws his complaint in the above-captioned case with no monetary

consideration and requests that the case be closed without further action.” Complainant’s Notice will be construed as a motion to withdraw his objections to the Secretary’s Findings. By letter dated April 8, 2019 and faxed from their counsel on that date, Respondents have indicated they “acknowledge, agree with and consent to” Complainant’s Notice.

Under 29 C.F.R. § 1980.111(c):

At any time before the findings or order become final, a party may withdraw his or her objection to the findings or order by filing a written withdrawal with the administrative law judge or, if the case is on review, with the [Administrative Review] Board. The judge or the Board, as the case may be, will determine whether the withdrawal will be approved. If the objections are withdrawn because of settlement, the settlement will be approved in accordance with paragraph (d) of this section.

If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings and/or order, and there are no other pending objections, the Assistant Secretary's findings and/or order will become the final order of the Secretary.

As the Secretary’s Findings are not final and a written withdrawal has been submitted, approval of Complainant’s motion to withdraw objections is appropriate. Accordingly, good cause having been shown, Complainant’s motion to withdraw his objections included with his request for a hearing in this matter will be granted and this case will be dismissed before the OALJ. The hearing scheduled for May 8-9, 2019 will be canceled and the Secretary’s Findings as outlined in the June 28, 2018 letter from OSHA will become the Secretary’s final order in this case.

ORDER

IT IS HEREBY ORDERED, that Complainant’s motion to withdraw his hearing request is **GRANTED**, and this case is, **DISMISSED WITH PREJUDICE**. The hearing scheduled for May 8-9, 2019, in New York, NY, is **CANCELED**.

SO ORDERED.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey