



Issue Date: 27 June 2018

Case No.: 2018-SOX-00021

In the Matter of

ERIC FOX

Complainant

and

IBERIA CAPITAL PARTNERS/IBERIA BANK

Respondent

**ORDER APPROVING WITHDRAWAL OF OBJECTIONS,
CANCELLING HEARING, AND DISMISSING CLAIM**

1. **Nature of Motion.** Pursuant to 20 C.F.R. § 18.33, Complainant filed a “Motion to Withdraw Objection and Hearing Request” of the above-captioned claim. Employer did not file an objection to Complainants’ motion.

2. **Findings of Fact and Procedural History.**

a. On November 14, 2017, Complainant filed a complaint with the Occupational Safety and Health Administration (OSHA) alleging Respondent terminated Complainant in violation of the Sarbanes-Oxley Act of 2002 (SOX), 18 U.S.C. § 1514A, and the implementing regulations, 29 C.F.R. Part 1980. After conducting an investigation, the Secretary of Labor, acting through the Regional Administrator for OSHA, concluded there was no reasonable cause to believe Respondent violated SOX and issued a final determination letter dismissing the complaint. On April 3, 2018, the matter was referred to the Office of Administrative Law Judges (OALJ) for a hearing and decision.

b. On May 31, 2018, the undersigned issued a Notice of Hearing, which scheduled the case for hearing on January 29, 2019 in Dallas, Texas.

c. On June 18, 2018, Complainants filed a “Motion to Withdraw Objection and Hearing Request.” Employer did not object to Complainants’ motion.

3. **Applicable Law and Analysis.**

The rules governing withdrawal of SOX complaints provide that at any time before the findings and preliminary order become final, a party may withdraw its objections to the findings or preliminary order by filing a written withdrawal with the administrative law judge, who shall

then determine whether to affirm any portion of the findings or preliminary order or approve the withdrawal. However, if the withdrawal of objections is based on a settlement, the settlement must be submitted to the ALJ for approval. 29 C.F.R. § 1980.111(c).

In his motion, Complainant moved to “withdraw [his] objection and hearing request on the preliminary order and findings by the Assistant Secretary in the above referenced case.” Complainant further attested that “if the court grants this motion, the aforementioned preliminary order and findings will be final and not subject to further judicial review.” Complainants’ motion makes clear that the basis for the motion is not based upon a proposed settlement agreement, which would require approval from the undersigned.

4. Ruling and Order.

a. Complainants’ motion for withdrawal of objections and request for hearing is GRANTED.

b. The hearing scheduled for January 19, 2019 in Dallas, Texas is CANCELLED.

c. Consistent with the regulations, the Secretary’s findings are affirmed in their entirety. The above-captioned matter is DISMISSED with prejudice without costs or attorney’s fees awarded to either party.¹

SO ORDERED this day at Covington, Louisiana.

TRACY A. DALY
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.

¹ Complainant requests that his motion be granted “without prejudice regarding any right [he has] to seek relief outside this court’s jurisdiction.” However, the undersigned’s authority to dismiss this case with prejudice only extends to this federal administrative tribunal.

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).