

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)
OALJ-DC-District@dol.gov



Issue Date: 30 September 2020

Case No.: 2018-SOX-00030
OSHA No.: 5-1260-18-100

In the Matter of:

GENE KATZ,
Complainant,

v.

UNDERWRITERS LABORATORIES,
Respondent.

ORDER DISMISSING COMPLAINT

This matter has been docketed 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, and the Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges found at 29 CFR Part 18A.

Factual and Procedural History

Complainant filed a complaint with the Occupational Safety and Health Administration (“OSHA”) of the U.S. Department of Labor on April 4, 2018. The Complaint alleged that his employer, Underwriters Laboratories (“UL”) terminated his employment in retaliation for reporting anti-competitive behavior, monopolistic pricing, potential foreign corruption, and breach of fiduciary duty in violation of the SOX Act. OSHA issued the Secretary’s Findings on April 20, 2018, stating that Complainant was not a covered employee and the Respondent was not a covered employer within the meaning of the Act.

Complainant filed an appeal to the Office of Administrative Law Judges (“OALJ”) on May 25, 2018. In the appeal letter, Complainant argued that privately held companies can be protected under Sarbanes Oxley “[p]er the Supreme Court findings in the Lawson matter”¹ when an employee points out unlawful behavior that impacts shareholders in publicly traded

¹ The case to which Complainant refers is *Lawson v. FMR LLC*, 134 S. Ct. 1158 (2014).

companies. Complainant's Appeal Letter at 1. On October 5, 2018, I issued a Notice of Assignment and Preliminary Order.

On March 6, 2019, Respondent filed a Motion to Dismiss ("Respondent's Motion" or "Motion") requesting that the complaint be dismissed because it fails to state a claim upon which relief can be granted.² In its Motion, Respondent argues that Complainant's appeal should be dismissed with prejudice because Respondent is not a covered employer subject to suit under the Act. First, it argues, Respondent does not register securities or file reports with the SEC that would bring it within coverage of Section 806. Second, Respondent argues, Complainant does not allege any protected activity that relates to any public company with which Respondent does business.³

On May 15, 2019, Complainant filed a Response to Respondent's Motion to Dismiss ("Complainant's Response" or "Response") arguing that most of UL's largest customers are publicly traded companies. Complainant further argues that it is unclear whether UL should be considered a private company. He notes that Underwriters Laboratories, Inc. is established as a not-for-profit organization but argues that its outstanding Phantom Restricted Share Units "could constitute public company treatment." Complainant's Resp. at 10.

Complainant also argues that UL's business practices involve public company fraud covered under the Act, even if UL is considered a private company. As previously noted, "most of UL's largest customers . . . were publicly traded companies . . . were publicly traded, and . . . these companies and their shareholders were impacted by the wrongdoing." Complainant's Response at 11.⁴ Complainant relies on *Lawson v. FMR*, where the Supreme Court found that SOX protection extended to plaintiffs who alleged fraudulent conduct concerning a public company.

On June 4, 2019, Respondent filed a Reply in Support of its Motion to Dismiss Complainant's Appeal ("Respondent's Reply" or "Reply"). Respondent argues that Complainant relies upon new materials outside of his OSHA complaint, and the new material

² On March 11, 2019, I issued an Order Granting Complainant's Motion to Stay Discovery.

³ Respondent also raises an issue regarding an alleged untimely claim under the Consumer Product Safety Information Act ("CPSIA") by Complainant. However, the instant matter is an appeal of Complainant's SOX claim denied by OSHA. Any additional claim under CPSIA or any other federal statute under OSHA jurisdiction must have been raised with OSHA and cannot be initiated with the Office of Administrative Law Judges. As stated in OSHA's April 20, 2018 Findings, "This case can be appealed under Sox." Secretary's Findings at 2.

⁴ Complainant, for the first time, also raises an argument that UL is a covered employer subject to the Act pursuant to Section 1107. Section 1107 of the Act does not fall within the jurisdiction of the Office of Administrative Law Judges or the Department of Labor. Violations of Section 1107 of Sarbanes-Oxley must be prosecuted criminally by the U.S. Department of Justice. In *Kukucka v. Belfort Instrument Co.*, ARB Nos. 06-104 and 120, ALJ Nos. 2006-SOX-57 and 81 (ARB Apr. 30, 2008), the complainant argued that because the respondent sued him in civil court, Respondent covered under section 1107 of SOX, which provides a criminal penalty for anyone who "with the intent to retaliate, takes any action harmful to any person" providing to a law enforcement officer information relating to the commission of a federal offense. 18 U.S.C.A. § 1513(e). The ARB, however, held that the Department of Labor does not have the authority to administer this SOX provision, citing *Henrich v. Ecolab, Inc.*, ARB No. 05-030, ALJ No. 2004-SOX-51, slip op. at 3 (ARB May 30, 2007).

confirms that UL is not a covered company under SOX Section 806. Additionally, Respondent argues that public company fraud is not implicated by Complainant's OSHA complaint.

Since June 2019, Complainant has submitted a number of filings, including a motion to lift the discovery stay he requested, and multiple copies of filings made in his separate state court action against Respondent. None of these filings are relevant to Respondent's Motion, i.e., the issue of whether Respondent is covered by SOX.

Standard of Review

The Administrative Review Board ("ARB" or "Board") disfavors the granting of motions to dismiss for failure to state a claim in SOX cases before the OALJ. *Sylvester v. Parexel Int'l, LLC*, ARB No. 07-123, slip op. at 13 (May 25, 2011) (*en banc*). If additional evidence beyond the pleadings is in the record, an administrative law judge should consider the motion as one for summary decision pursuant to 29 C.F.R. § 18.40. *Id.*; *Erickson v. U.S. EPA*, ARB No. 99-095, slip op. at 3 n.3 (July 31, 2001).

Unlike a motion for summary decision filed after discovery, a facial challenge offered to a complaint through Rule 12(b)(6) points to a missing essential element (no protected activity or adverse action) or a legal bar to the claim (e.g., sovereign immunity, lack of coverage over the respondent, or the statute of limitations). *Evans v. U.S. Environmental Protection Agency*, ARB No. 08-059, ALJ Case No. 2008-CAA-00003, slip op. at 10 (ARB July 31, 2012). A motion to dismiss under Rule 12(b)(6) tests the sufficiency of the complaint, not the merits of the case. *Id.*

The Rules allow a motion to dismiss "for reasons recognized under controlling law, such as lack of subject matter jurisdiction, failure to state a claim upon which relief can be granted, or untimeliness." 29 C.F.R. § 18.70(c). The Board has rejected the heightened pleading standard applicable in federal district courts that requires a complaint set forth sufficient factual allegations to "state a claim to relief that is plausible on its face." *See Evans*, slip op. at 6 (citing *Ashcroft v. Iqbal*, 556 U.S.662, 678 (2009)). Instead, the legal standard for determining whether a complaint states a claim upon which relief can be granted in administrative whistleblower proceedings before the U.S. Department of Labor is "fair notice."⁵ *Id.* at 9. This "is not a demanding standard." *Gallas v. Medical Center of Aurora*, ARB Nos. 15-076, 16-012, ALJ Nos. 2015-ACA-00005, 2015-SOX-00013, slip op. at 10 (ARB Apr. 28, 2017).

A motion to dismiss is based "solely on the allegations in the complaint, its amendments, and the legal arguments the parties raised—not whether evidence exists to support such allegations." *Evans*, ARB No. 08-059, slip op. at 10. In evaluating a motion to dismiss, "the ALJ must assume the truth of the facts asserted in the complaint and draw all reasonable inferences in favor of the non-moving party." *Id.* A motion to dismiss points to a missing essential element of a claim or a legal bar to a claim, such as a lack of coverage over the respondent, but the ALJ generally "should not consider new evidence submitted by the moving

⁵ A complainant need only provide "(1) some facts about the protected activity, showing some 'relatedness' to the laws and regulations of one of the statutes in our jurisdiction, (2) some facts about the adverse action, (3) a general assertion of causation and (4) a description of the relief that is sought." *Evans*, ARB No. 08-059 slip op. at 9.

party (i.e., evidence that was not before OSHA at the investigatory phase) unless he or she converts the motion to one for summary decision and allows the non-movant an opportunity to respond.” *Id.*

The whistleblower protections under SOX, 18 U.S.C. § 1514A(a), as amended by Dodd-Frank in 2010, read in relevant part:

(a) Whistleblower Protection for Employees of Publicly Traded Companies.--No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company, or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or any officer, employee, contractor, subcontractor, or agent of such company or nationally recognized statistical rating organization, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee ...

(emphasis added). Section 929A of Title IX of Dodd-Frank clarified that Section 1514A protects employees of public company subsidiaries or affiliates and extended coverage to nationally recognized statistical rating organizations (“NRSROs”). Pub.L. No. 111–203, § 929A, 124 Stat. 1376, 1852 (2010); *see also Lawson*, 134 S. Ct. at 1158; *Johnson v. Siemens Bldg. Tech. Inc.*, ARB No. 08-032, ALJ No. 2005-SOX-00015 (Mar. 31, 2011).

In order to prevail on the merits of a Section 806 case, a covered employee must prove by a preponderance of the evidence that he or she suffered an unfavorable personnel action by a covered employer.⁶ Therefore, as a threshold matter, to avail himself of SOX whistleblower protections, Complainant must demonstrate that Respondent is covered under Section 806, i.e., a company “with a class of securities registered” under the Securities Exchange Act, or that is “required to file reports” under the Act, or that the company is a subcontractor, contractor, or agent of a publicly traded company.⁷

Discussion

The only issue I must decide for the purposes of determining whether to dismiss this complaint is whether or not UL is a covered employer under SOX.

Whether Respondent is a “Public Company”

⁶ 49 U.S.C.A. § 42121; 18 U.S.C.A. § 1514A(B)(2)(c).

⁷ 18 U.S.C.A. § 1514A(a).

Complainant concedes that it is unclear whether or not Respondent is a private or public entity.⁸ Complainant argues that Respondent's role in protecting the public establishes UL's classification as a public company. Complainant also argues that UL is a public company because it has issued "phantom shares" to employees, which "could constitute public policy treatment (sic)." Complainant's Resp. at 8. Complainant cites no authority for this position. Respondent argues that the issuance of phantom shares is an extremely common practice among privately held companies and would mark a dramatic expansion of SOX coverage warranted by neither the statute nor the policy underlying it.

SOX whistleblower complaints may only be initiated by those employed by certain enumerated employers. See *Brady v. Calyon Sec. (USA)*, 406 F. Supp. 2d 307, 317 (S.D.N.Y. 2005) ("A specific requirement [of SOX], therefore, is that defendant be a publically traded company"). Complainant has not demonstrated that Respondent is covered under Section 806 as a public company, i.e., a company "with a class of securities registered" under 15 U.S.C. 781, or a company "required to file reports" under 15 U.S.C. 780(d), or a subsidiary or affiliate whose financial information is included in the consolidated financial statements of a public company. Lastly, Complainant has not shown Respondent is an NRSRO. Accordingly, I find that Respondent is not a public company under the Act.

Whether Respondent Is a "Contractor"

Complainant relies on the Supreme Court decision in *Lawson*, where the Court ruled on whether 18 U.S.C. § 1514A protected employees of certain privately held companies who act as a "contractor" to publicly traded companies.⁹

In *Lawson*, two former employees (Lawson and Zang) of private companies that contracted to advise or manage Fidelity mutual funds brought separate actions against their former employers, alleging the employers unlawfully retaliated against them in violation of Section 1514A.¹⁰ Ms. Lawson alleged that she was constructively discharged after raising concerns that certain cost accounting methodologies overstated the expenses associated with operating the mutual funds.¹¹ Mr. Zang alleged that he was fired in retaliation for raising concerns about inaccuracies in a draft for a registration statement to be filed with the Securities and Exchange Commission ("SEC").¹² The defendant contended that Section 1514A was limited to protecting employees of a publicly-traded company from retaliation by the company's private contractors or subcontractors.

⁸ "It is unclear whether UL should be considered a private company. Internal Revenue Service ("IRS") (sic) has classified Underwriters Laboratories Inc (sic) as a tax-exempt public charity, per Section 501(c)(3) of the tax code. Underwriters Laboratories Inc (sic), is established as a not-for-profit organization promoting safe living and working environments, to promote the public (sic). Its business of safety, makes it a matter of public policy. Specifically, UL, which has a monopoly in ensuring safety in the United States in many industries, including Energy and Power Technologies, has a strong public responsibility." Complainant's Resp. at 10.

⁹ *Lawson*, 134 S. Ct. at 1158.

¹⁰ *Id.* at 1161.

¹¹ *Id.* at 1164.

¹² *Id.*

The Supreme Court rejected the defendant's contention based on the text of 18 U.S.C. § 1514A, legislative history of the statute, and environment in which SOX was enacted. The Court held that "based on the text of § 1514A, the mischief to which Congress was responding, and earlier legislation Congress drew upon, [§ 1514A] shelters employees of private contractors and subcontractors [of publicly-traded companies], just as it shelters employees of the public company served by the contractors and subcontractors."¹³ The Court noted that Congress borrowed Section 1514A's retaliation provision from the wording of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. § 42121, and that Section 42121 has itself been read to protect the employees of contractors covered by that provision.

In finding that the *Lawson* plaintiffs were covered by SOX, the Court relied on SOX's overarching goal of preventing fraud by public companies, as well as the unusual structure of mutual funds, which generally have no employees and are managed instead by independent investment advisers. The Court also concluded that if the *Lawson* plaintiffs were not covered by SOX, it could insulate the entire mutual fund industry from Section 1514A, and given the vital role mutual funds play in filing reports to the SEC, such insulation could not have been Congress' intent.¹⁴ Hence, finding that the *Lawson* plaintiffs were covered by SOX furthered the statute's goals in preventing publicly-held companies from utilizing outside contractors or related and controlled companies to perpetuate fraud on their shareholders.

However, the Supreme Court's interpretation of a "contractor" in *Lawson* does not extend coverage to Respondent under SOX. As Justice Ginsberg stated in *Lawson*, "Congress enacted § 1514A aiming to encourage whistleblowing by contractor employees who suspect *fraud involving the public companies with whom they work.*" *Lawson*, 134 S.Ct. at 1170 (emphasis added).

An early post-*Lawson* decision from the United States District Court for the Eastern District of Pennsylvania is instructive. See *Gibney v. Evolution Marketing Research, LLC*, 25 F. Supp. 3d 741 (E.D. Pa. 2014). In *Gibney*, the plaintiff brought a SOX whistleblower action against his former employer, Evolution Marketing Research ("Evolution"), for wrongful termination. The plaintiff alleged that the defendant's planned billing practices relating to a publicly-traded client (to which the defendant, a non-publicly traded company, was a contractor) were fraudulent.

The plaintiff contended that as an employee of a contractor to a publicly-traded company, and pursuant to the Supreme Court's decision in *Lawson*, his activities were protected under 18 U.S.C. § 1514A. The court reviewed the *Lawson* decision and found that it was clear that whistleblower protection extends to employees of private contractors or subcontractors for a public company. However, the *Gibney* court continued, the plaintiff was advocating "an impermissibly broad definition of SOX protection that was neither intended by Congress nor contemplated by the Supreme Court in *Lawson.*" *Id.* at 747. First, the court noted that unlike *Lawson*, the instant case did not implicate the peculiar structure of the mutual fund industry,

¹³ *Id.* at 1158.

¹⁴ *Id.* at 1171-72.

where there are no “employees.” *Id.* at 745. Second, the complaint did not allege fraud *by* the publicly-traded company or that the defendant contractor abetted fraud *by* the publicly traded company. Rather, the complaint alleged that there was fraud being committed *against* the publicly-traded company. *Id.* at 747–748. Congress, the court noted, “was specifically concerned with preventing shareholder fraud either by the public company itself or *through* its contractors.” *Id.* at 747 (emphasis as in original). The court stated that it did not believe SOX was intended to reach the type of scenario in *Gibney*, “where there are allegations of fraudulent conduct between two companies who are a party to a contract, and one of those companies just happens to be publicly-traded.” *Id.* at 748. Thus, the court found that Evolution was not a covered respondent/defendant, and it granted Evolution’s motion to dismiss.

Additionally, other courts have followed reasoning similar to that in *Gibney*. See *Anthony v. Nw. Mut. Life Ins. Co.*, 130 F. Supp. 3d 644, 652 (N.D.N.Y. 2015) (“§ 1514A only covers contractors insofar as they are firsthand witnesses to corporate fraud at a public company—for example, the lawyers and accountants in the Enron scandal who facilitated and contributed to the fraud.”); *Plutzer v. United Servs. Auto. Ass’n*, ALJ No. 2015-SOX-00007 (ALJ Mar. 24, 2015) (“Even prior to recent developments in the courts through *Lawson* and *Gibney*, the Administrative Review Board and administrative law judges have definitively stated that a non-publicly traded company’s commercial transactions with a publically traded company . . . does not bring the non-publicly traded company, and hence its employees, under the whistleblower provisions of SOX”); *Fleszar v. American Medical Association*, ARB Nos. 07-091, 08-061, ALJ Nos., 2007-SOX-30, 2008-SOX-16, slip op. at 4 (ARB Mar. 31, 2009) (“[Complainant] proposes that the [Respondent] is a proper respondent because it does business with publicly held companies . . . a not-for-profit organization’s engaging in commercial transactions does not convert it into a proper respondent for SOX whistleblower purposes.”). Indeed, the reasoning of the *Gibney* court and others is level-headed, as the extension of SOX protection to whistleblowers from private companies and nonprofits that commit fraud against the public companies they contract with would essentially make SOX a generalized fraud statute that could be applied to seemingly any company in the United States. See *Lawson*, 134 S.Ct. at 1170 (“‘contractor’ does not extend to every fleeting business relationship. Instead, the word ‘refers to a party whose performance of a contract will take place over a significant period of time.’”); *Fleszar v. United States Dept. of Labor*, 598 F.3d 912, 915 (C.A.7 2010) (“Nothing in § 1514A implies that, if [a privately held business] buys a box of rubber bands from Wal-Mart, a company with traded securities, the [business] becomes covered by § 1514A.”); *Anthony*, 130 F. Supp. 652 (N.D.N.Y. 2015) (“A private company’s fraudulent practices do not become subject to § 1514A merely because that company incidentally has a contract with a public company”).

Complainant states that:

UL was engaging in a number of unlawful business practices . . . (i) to maintain its market dominance, UL was engaging in a number of unlawful and anticompetitive practices, including monopolistic pricing, tying arrangements, and bundling of its services in violation of federal and state anti-trust laws; (ii) UL employees were taking bribes in China in violation (sic); (iii) UL’s CEO was compromising his fiduciary obligations to the company based on a conflict of interest.

Complainant's Resp. at 4. Even if these complaints are true, they do not grant coverage under SOX. In fact, they mirror the flawed reasoning that led courts to dismiss whistleblower claims in cases such as *Gibney* and others. The allegations, even if true, at best represent fraud *on* a public company, rather than fraud *by* a public company or a contractor abetting fraud by a publicly traded company. And, once again, if I were to follow Complainant's reasoning, I would effectively be interpreting SOX as a fraud statute applicable to practically every going concern in the United States. "§1514A is concerned with public company fraud, whether committed by the public company itself or through its contractors . . . The effect of these limitations is to restrict §1514A to situations where a contractor employee is functionally acting as an employee of a public company, and in that capacity, is a witness to fraud by the public company." *Anthony*, 130 F.Supp. 3d 644 (N.D.N.Y. 2015). Nothing Complainant has presented casts Respondent or its employees as, "functionally acting as an employee of a public company[,]" and Complainant has alleged no fraud by a public company, therefore Complainant has not demonstrated that UL is a contractor or subcontractor covered by the Act.

CONCLUSION

Accordingly, I find that Respondent is not covered by SOX. Even if Complainant reported illegal activity and Respondent terminated his employment based on this activity, Complainant has failed to demonstrate that Respondent is covered by SOX.

ORDER

IT IS HEREBY ORDERED that Respondent's Motion to Dismiss is **GRANTED**, and the complaint in Case No. 2018-SOX-00030 filed by Complainant Gene Katz under the Sarbanes-Oxley Act is **DISMISSED WITH PREJUDICE** pursuant to 29 C.F.R. § 18.70(c).

SO ORDERED.

CARRIE BLAND
District Chief Administrative Law Judge

Washington, D.C.

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).