



**In the Matter of:**

**NELL WALTON,**

**ARB CASE NO. 06-100**

**COMPLAINANT,**

**ALJ CASE NO. 2005-SOX-107  
2006-SOX-18**

**v.**

**DATE: September 29,2006**

**NOVA INFORMATION,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**FINAL DECISION AND ORDER DISMISSING  
INTERLOCUTORY APPEAL**

The Complainant, Nell Walton, has filed a complaint against the Respondents, NOVA Information Systems and BanCorp alleging that the Respondents retaliated against her in violation of the whistleblower protection provisions of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (SOX)<sup>1</sup> NOVA filed an appeal of a Department of Labor Administrative Law Judge's Order Denying Motion to Dismiss issued on March 29, 2006.

The Secretary of Labor has delegated her authority to issue final administrative decisions in cases arising under SOX to the Administrative Review Board.<sup>2</sup> Because the Administrative Law Judge (ALJ) has not issued his final recommended decision and

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<sup>1</sup> 18 U.S.C.A. § 1514A (West Supp. 2003).

<sup>2</sup> Secretary's Order 1-2002 (Delegation of Authority and Responsibility to the Administrative Review Board), 67 Fed. Reg. 64,272 (Oct. 17, 2002).

order in this matter, NOVA's request that the Board review the ALJ's order is an interlocutory appeal. The Secretary's delegated authority to the Board includes, "discretionary authority to review interlocutory rulings in exceptional circumstances, provided such review is not prohibited by statute."<sup>3</sup>

Because NOVA did not request the ALJ to certify the appeal for interlocutory review and the Board has held many times that interlocutory appeals are generally disfavored, and that there is a strong policy against piecemeal appeals,<sup>4</sup> the Board issued an order on July 7, 2006, requiring NOVA to show cause why the Board should not dismiss its interlocutory appeal.

An agent for NOVA's counsel signed the certified mail return receipt on July 11, 2006, but NOVA failed to file a response to the Board Order to Show Cause. Accordingly, because NOVA has failed to respond to the Board's show cause order and thus has failed to demonstrate exceptional circumstances justifying consideration of its interlocutory appeal, we **DISMISS** NOVA's interlocutory appeal.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**WAYNE C. BEYER**  
**Administrative Appeals Judge**

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<sup>3</sup> *Id.* at 64,273.

<sup>4</sup> *See e.g., Welch v. Cardinal Bankshares Corp.*, ARB No. 04-054, ALJ No. 03-SOX-15 (ARB May 13, 2004); *Amato v. Assured Transp. & Delivery, Inc.*, ARB No. 98-167, ALJ No. 98-TSC-6 (ARB Jan. 31, 2000); *Hasan v. Commonwealth Edison Co.*, ARB No. 99-097; ALJ No. 99-ERA-17 (ARB Sept. 16, 1999).