

U.S. Department of Labor

Office of Administrative Law Judges
Seven Parkway Center - Room 290
Pittsburgh, PA 15220

(412) 644-5754
(412) 644-5005 (FAX)



Issue Date: 14 March 2007

Case Numbers: 2005-SOX-107
2006-SOX-18

IN THE MATTER OF:

NELL WALTON,
Complainant,

v.

NOVA INFORMATION SYSTEMS AND
U.S. BANCORP,
Respondents.

ORDER OF DISMISSAL

The above-captioned matter arises under the employee protection provisions of the Sarbanes-Oxley Act, 18 U.S.C. § 1514A. By order issued January 12, 2007, a hearing is scheduled for May 1, 2007, through May 4, 2007, in Knoxville, Tennessee. Orders had previously been issued denying Respondents' Motion to Dismiss and Motion for Summary Judgment.

On March 6, 2007, Complainant submitted via facsimile a *Notice of Intention to Bring Action in U.S. District Court* pursuant to 29 C.F.R. § 1980.114. The *Notice* stated: "Therefore this administrative matter should be dismissed without prejudice." The provision at 29 C.F.R. § 1980.114 provides that where the Administrative Review Board ("Board") has not issued a final decision within 180 of the filing of the complaint, the complainant may bring an action in U.S. district court for *de novo* review so long as there is no showing of delay due to bad faith by the complainant. The regulations require the complainant to provide, fifteen days in advance, notice of the intent to file to the administrative law judge or the Board. 29 C.F.R. § 1980.114(b). As this complaint has been pending for more than 180 days and Complainant has provided the requisite notice,

IT IS HEREBY ORDERED that this case is dismissed without prejudice.

IT IS ORDERED FURTHER that the hearing scheduled for May 1 through May 4, 2007, in Knoxville, Tennessee, is CANCELLED.

A
THOMAS M. BURKE
Administrative Law Judge

