



In the Matter of:

KEITH BULLS,

ARB CASE NOS. 07-014, 07-016

COMPLAINANT,

ALJ CASE NO. 2006-SOX-00117

v.

DATE: January 17, 2004

CHEVRON TEXACO, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER DISMISSING APPEAL

The Complainant, Keith B. Bulls, filed a complaint on February 10, 2006, under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (SOX),¹ and its implementing regulations² with the Department of Labor's Occupational Safety and Health Administration (OSHA). Bulls alleged that the Respondent, Chevron Texaco, Inc., retaliated against him in violation of SOX's whistleblower protection provisions.³ OSHA dismissed the complaint on June 23, 2006.

¹ 18 U.S.C.A. § 1514A (West Supp. 2003).

² 29 C.F.R. Part 1980 (2006).

³ Title VIII of Sarbanes-Oxley is designated the Corporate and Criminal Fraud Accountability Act of 2002. Section 806 covers companies with a class of securities registered under section 12 of the Securities Exchange Act of 1934, 15 U.S.C § 78l, and companies required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 780(d)), or any officer, employee, contractor, subcontractor, or agent of such

Bulls requested a hearing before a Department of Labor Administrative Law Judge (ALJ). On October 13, 2006, the ALJ issued a Recommended Decision and Order Granting Motion for Summary Decision (R. D. & O.). The ALJ found that Bulls failed to file a timely complaint because he did not file his complaint within ninety days of the date on which Chevron Texaco terminated his employment.⁴ He also found that Bulls was not entitled to either equitable tolling or equitable estoppel.⁵

Bulls filed a petition for review with the Board on October 25, 2006, and Chevron Texaco, Inc. filed a protective appeal on October 23, 2006. The Secretary of Labor has delegated to the Administrative Review Board her authority to issue final agency decisions under SOX.⁶

On October 25, 2006, the Board received Bulls's Notice of Intent to File Lawsuit in Federal District Court. If the Board has not issued a final decision within 180 days of the date on which the complainant filed the complaint and there is no showing that the complainant has acted in bad faith to delay the proceedings, the complainant may bring an action at law or equity for de novo review in the appropriate United States district court, which will have jurisdiction over the action without regard to the amount in controversy.⁷ Accordingly, we ordered the parties to show cause no later than November 24, 2006, why the Board should not dismiss the appeals filed by the Complainant and Petitioners pursuant to 29 C.F.R. § 1980.114.

companies. Section 806 protects employees who provide information to a covered employer or a Federal agency or Congress relating to alleged violations of 18 U.S.C. 1341, 1343, 1344, or 1348, or any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders. In addition, employees are protected against discrimination when they have filed, testified in, participated in, or otherwise assisted in a proceeding filed or about to be filed against one of the above companies relating to any such violation or alleged violation. 68 FR 31864 (May 28, 2003).

⁴ R. D. & O. at 6.

⁵ *Id.* at 6-13.

⁶ Secretary's Order No. 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002); 29 C.F.R. § 1980.110(a)(2006).

⁷ 18 U.S.C.A. § 1514A(b)(1)(B); 29 C.F.R. § 1980.114. As is usually the case, the 180-day period for deciding the case had expired before the Complainant filed his petition with the Board.

Neither party responded to the Board's Order. Therefore, because Bulls has opted to pursue his SOX complaint in district court rather than at the Board, we **DISMISS** his appeal.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

DAVID G. DYE
Administrative Appeals Judge