

U.S. Department of Labor

Office of Administrative Law Judges
11870 Merchants Walk - Suite 204
Newport News, VA 23606

(757) 591-5140
(757) 591-5150 (FAX)



Issue Date: 19 July 2005

Case No.: 2005-SOX-0067

In the Matter of:

RICHARD METHE
Complainant,

v.

LENNAR CORP.,
Respondent.

Before: DANIEL A. SARNO, JR.
Administrative Law Judge

FINAL ORDER DISMISSING COMPLAINT WITH PREJUDICE
BASED ON STIPULATION OF PARTIES

This case arises out of a complaint of discrimination filed pursuant to the employee protection provisions of section 806 the Sarbanes-Oxley Act of 2002, 18 U.S.C. §1514A ("the Act"). The Act affords protection from employment discrimination to employees of 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. Specifically, the law protects "whistleblower" employees from retaliatory or discriminatory actions by the employer because the employee provided information to their employer, a federal agency, or Congress relating to alleged violations of 18 U.S.C. §§1341, 1343, 1344, 1348, or any provision of federal law relating to fraud against shareholders.

On October 18, 2004, Complainant, Richard Methe, filed a complaint of discrimination against Respondent, Lennar Corporation. In a May 4, 2005 decision, the Regional Administrator of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, denied the complaint upon finding that no evidence existed to support Complainant's contention that he was discharged in retaliation for raising concerns to company management regarding financial improprieties. Complainant appealed the Regional Administrator's decision in a letter dated May 27, 2005, and requested a formal hearing before the Office of Administrative Law Judges. The case was then referred to this office and assigned to me for hearing and decision.

On July 15, 2005, the parties, through their respective attorneys of record, filed a Stipulation of Dismissal and Motion For Order Dismissing Complaint With Prejudice. The parties request that the court dismiss Complainant's Complaint and objections to the findings issued by the Department of Labor and enter an Order dismissing the Complaint and objections with Prejudice.

The Act's regulations provide that at any time prior to the findings or order becoming final, a party may withdraw her objections to the findings or order by filing a written withdrawal request with the administrative law judge. *See* 29 C.F.R. § 1980.111(c). Upon submission, the administrative law judge determines whether the withdrawal will be approved. Since no determination or order has become final concerning Complainant's complaint of discrimination under the Act, the regulation permits Complainant to withdraw his complaint. Accordingly, I approve the withdrawal of Complainant's complaint and his corresponding objection to the Regional Administrator's effective dismissal of his whistleblower complaint. My approval of the withdrawal motion terminates all proceedings before the Office of Administrative Law Judges.

ORDER

It is hereby **ORDERED** that parties' Stipulation For Dismissal and Motion For Order Dismissing Complaint With Prejudice is **GRANTED**.

SO ORDERED.

A

Daniel A. Sarno, Jr.
Administrative Law Judge

DAS/jrr
Newport News, Virginia

NOTICE OF APPEAL RIGHTS: To appeal you must file a petition for review (Petition) within ten business days of the date of the administrative law judge's decision with the Administrative Review Board ("Board"), U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. Your Petition must specifically identify the findings, conclusions or orders you object to. You waive any objections you do not raise specifically.

At the time you file the Petition with the Board you must serve it on all parties, and the Chief Administrative Law Judge; the Assistant Secretary, Occupational Safety and Health Administration; and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

If you do not file a timely Petition, this decision of the administrative law judge becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1980.110. Even if you do file a Petition, this decision of the administrative law judge becomes the final order of the Secretary of Labor unless the Board issues an order within 30 days after you file your Petition notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1980.109(c) and 1980.110(a) and (b).