



Issue Date: 03 October 2005

**Case No.: 2005-SOX-69
2005-SOX-70**

In the Matter of

JOHN DECKARD AND PETER FRANKL,
Complainants,

v.

**NETOPIA, INC., ALAN LEFKOF,
DAVID KADISH, ROBERT C. LEE,
HOWARD T. SLAYEN, HAROLD WILLS,
AND REESE M. JONES,**
Respondents.

ORDER GRANTING REQUEST FOR DISMISSAL

This matter arises under the employee protection provision of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (Public Law 107-204), 18 U.S.C. § 1514A (“Act” or “SOX”) as implemented by 29 C.F.R. Part 1980. This proceeding was initiated before the Office of Administrative Law Judges (“OALJ”) on June 9, 2005, when the Complainants, John Deckard and Peter Frankl, filed objections to the Secretary’s findings following an investigation of a complaint filed under the Act against the Respondents, and asked for a hearing before the OALJ.

A formal hearing in this matter was scheduled for September 7, 2005. On August 31, 2005, the Parties transmitted an Agreed Motion to Dismiss Without Prejudice, documenting that a civil action had been filed in the Federal District Court for the Northern District of Texas seeking relief under the Act.

Upon consideration of this motion, I find dismissal of this case appropriate, as an action based on the same claim that is the subject of this proceeding is currently pending in Federal District Court.

Accordingly, the Parties' Agreed Motion to Dismiss Without Prejudice is **GRANTED**. It is hereby **ORDERED** that this matter be **DISMISSED** so that this matter can be pursued in Federal District Court.

SO ORDERED.

A

Richard D. Mills

District Chief Administrative Law Judge

On behalf of presiding judge:

LEE J. ROMERO, Jr.

Administrative Law Judge

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