

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 05 August 2005**

**CASE NO.: 2005-SOX-00063**

**In the Matter of:**

**MICHAEL WEED,  
Complainant,**

**v.**

**ASSET ACCEPTANCE CORPORATION,  
Respondent.**

**RECOMMENDED FINAL ORDER OF DISMISSAL**

The instant case was brought by Complainant Michael Weed under the employee protection (whistleblower) provisions of the Sarbanes-Oxley Act of 2002 (the "Act"), 18 U.S.C. §1514A, with implementing regulations appearing at 29 C.F.R Part 1980. While the November 1, 2004 letter complaint asserted that Complainant was terminated in retaliation for reporting illegal debt collection practices by Respondent, the complaint did not explain what practices were involved or the basis for asserting that they were illegal. Because the complaint did not appear to state a cause of action cognizable under the whistleblower provision of the Sarbanes-Oxley Act, set forth at 18 U.S.C. §1514A, the undersigned administrative law judge issued a Notice of Assignment and Order to Show Cause on June 10, 2005. That Order directed the parties to state their positions on the preliminary jurisdictional issue and show cause, if there was any, why this matter should not be dismissed for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

In lieu of filing a response, by letter of July 7, 2005, filed on July 12, 2005, Complainant's attorney moved for withdrawal of Complainant's SOX claim and stated the following:

Please be advised that my Mr. Weed has decided to withdraw his SOX claim. Since the Secretary's initial investigation, Mr. Weed has gathered considerable evidence in the state court proceedings to establish that the purported reasons for his discharge were a pretext for unlawful discrimination. Mr. Weed has decided to pursue his remedies for his retaliatory discharge in state court.

No response to the Show Cause Order or to Complainant's letter motion for withdrawal has been filed by Respondent.

Under section 1980.111(c) of title 29, C.F.R.:

(c) At any time before the findings or order become final, a party may withdraw his or her objections to the findings or order by filing a written withdrawal with the administrative law judge or, if the case is on review, with the [Administrative Review] Board. The judge or the Board, as the case may be, will determine whether the withdrawal will be approved. If the objections are withdrawn because of settlement, the settlement will be approved in accordance with paragraph (d) of this section.

As the Secretary's Findings are not final and a written withdrawal has been filed, approval of the withdrawal is appropriate. Although Complainant has indicated a desire to withdraw his claim, he is actually withdrawing his hearing request. Accordingly, good cause having been shown, Complainant's request for withdrawal will be granted and this case will be dismissed.

### **ORDER**

**IT IS HEREBY ORDERED**, that Complainant's letter motion to withdraw be, and hereby is, **GRANTED**, and this case be, and hereby is, **DISMISSED WITH PREJUDICE**.

**A**

PAMELA LAKES WOOD  
Administrative Law Judge

Washington, D.C.

**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).