DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Appeal

Name of Petitioner: Vinod Chudgar

Date of Filing: January 28, 2011

Case Number: TBA-0100

This Decision considers an Appeal of an Initial Agency Decision (IAD) issued on January 13, 2011, involving a complaint of retaliation filed under the Department of Energy (DOE) Contractor Employee Protection Program, 10 C.F.R. Part 708, by Vinod Chudgar (hereinafter referred to as "the Complainant" or "Mr. Chudgar") against Savannah River Remediation (hereinafter referred to as "the Respondent" or "SRR"). SRR is the Management and Operations contractor for the Department of Energy's (DOE) Savannah River Site (SRS). In his complaint, Mr. Chudgar alleged that he engaged in protected activity and, as a consequence, suffered reprisals by the Respondent. In the IAD, an Office of Hearings and Appeals (OHA) Hearing Officer granted a Motion to Dismiss filed by the Respondent. Mr. Chudgar appealed the decision. As set forth below, the Appeal is denied.

I. BACKGROUND

A. The DOE Contractor Employee Protection Program

The Department of Energy's Contractor Employee Protection Program was established to safeguard "public and employee health and safety; ensur[e] compliance with applicable laws, rules, and regulations; and prevent [] fraud, mismanagement, waste and abuse" at DOE's government-owned or-leased facilities. 57 Fed. Reg. 7533 (March 3, 1992). Its primary purpose is to encourage contractor employees to disclose information which they "reasonably and in good faith" believe exhibits unsafe, illegal, fraudulent, or wasteful practices and to protect those "whistleblowers" from consequential reprisals by their employers. 10 C.F.R. § 708.5 (a). Thus, contractors found to have taken adverse personnel actions against an employee for such a disclosure or for seeking relief in a "whistleblower" proceeding [a "protected activity"] will be directed by the DOE to provide relief to the complainant. See 10 C.F.R. § 708.2 (definition of retaliation).

The DOE Contractor Employee Protection Program regulations set forth at 10 C.F.R. Part 708 establish administrative procedures for the processing of complaints. Under these regulations, review of an IAD, as requested by Mr. Chudgar, is performed by the Director of OHA. 10 C.F.R. § 708.32.

B. Factual Background

For purposes of review, I set forth the pertinent facts as set out in the Report of Investigation (ROI) and in the subsequent IAD.[1] The Complainant has been employed at SRS since 1988. In April 2009, he was a Senior Engineer A for Washington Savannah River Company (WSRC), then the Management and Operations contractor for SRS. Mr. Chudgar's job was to electronically file software and software revisions as they were created. This software was written and tested by design engineers, implementing engineers and software end-users who were tasked with designing and implementing the software. The Complainant acknowledged that he did not use his engineering background to perform his duties as a Senior Engineer A, and other employees described his duties as clerical.

In early 2009, SRR became the prime contractor for nuclear cleanup at SRS. During the transition from WSRC to SRR, a management team was selected to evaluate all applicants for employment under the new contract. The team members were SRR managers and other managers chosen based on their expertise in the various functional areas that had vacancies. WSRC employees had to apply for employment under the new SRR contract. Applicants were asked to answer eight competency-based questions, and could also add supplemental information to their applications. The panel restricted its evaluation to the application package. They did not review or accept performance evaluations, nor did they interview or solicit information from the applicant's managers or colleagues. The panel that evaluated the Complainant's application found it to be poorly written and difficult to understand. They rated the application very low and recommended that SRR not hire Mr. Chudgar. However, SRR decided to hire all of the applicants. Over 500 applicants were offered engineering positions and 12, including the Complainant, were offered other positions. In July 2009, he was offered, and accepted, his current position as a Principal Process Computer Analyst.

C. Procedural Background

On July 13, 2009, Mr. Chudgar filed a Part 708 complaint with the Employee Concerns Manager of the DOE's Savannah River Operations Office. In the complaint, Mr. Chudgar alleged that in April 2009, while employed by the predecessor contractor WSRC, he engaged in conduct that was protected under 10 C.F.R. Part 708 and, as a result, was transferred to a non-engineering position in July 2009 when SRR won the contract. As a remedy for this alleged act of retaliation, the Complainant sought relief including reinstatement to an engineering position and disciplinary action against certain employees. July 13, 2009 complaint at 2. SRR filed its response to this complaint on October 9, 2009, arguing that Mr. Chudgar had not made a protected disclosure as defined by Part 708, that none of the people who decided to offer the Complainant his current position had any knowledge, constructive or actual, of his allegedly protected activities, and that his placement in a

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[1]The events leading to the filing of Mr. Chudgar's complaint are fully set forth in the IAD. *See Vinod Chudgar*, Case No. TBH-0100 (2011). Decisions issued by OHA are available on the OHA website located at http://www,oha.doe.gov. The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at http://www.oha.doe.gov/search.htm.

new position was not retaliatory and did not result in a materially adverse change in his employment. The parties unsuccessfully attempted to mediate the dispute. The Employee Concerns Manager of the Savannah River Operations office then forwarded the complaint to OHA in May 2010 for an investigation followed by a hearing.

On September 27, 2010, an OHA Investigator issued her Report of Investigation (ROI). In the ROI, the Investigator identified two potentially protected disclosures. First, the Complainant claimed that a WSRC employee tried to intimidate him into archiving an incomplete revision of software that was designed to control the function of a pump that was used to move liquid from one storage tank to another, and that, after he refused, the software was archived anyway. Mr. Chudgar contends that his disclosure of these events revealed a substantial violation of a law, rule or regulation and a substantial danger to employees or to the public. Second, the Investigator cited Mr. Chudgar's contention that SRR violated a procedure because a safety committee had not approved the changes recommended in another software design package and thus it was not implemented according to established company procedures. Specifically, he claimed that engineers were not following requirements to supercede previous revisions when "baselining" the files. [2]

With regard to the first disclosure, the Investigator could not conclude from the evidence that the Complainant reasonably believed that this disclosure revealed a substantial danger to employees or to the public. She concluded that the Hearing Officer might want to ask for further evidence concerning the Complainant's contention that the disclosure revealed a substantial violation of a law, rule or regulation. ROI at 10. With regard to the second disclosure, the Investigator was also unable to conclude that it revealed a substantial danger to employees or the public or a substantial violation of a law, rule or regulation.

The Investigator also addressed the issue of whether the individuals who decided to offer the Complainant his current position had actual or constructive knowledge of his alleged protected activities, and concluded that, in all likelihood, they did not. Finally, she concluded that, even if the individual made at least one protected disclosure, and even if that disclosure was a contributing factor to a negative personnel action taken against him, it is likely that SRR would be able to offer compelling evidence that it would have taken the same action regarding Mr. Chudgar's employment in the absence of that disclosure. On December 8, 2010, SRR filed a Motion to Dismiss the complaint. Mr. Chudgar filed his response to the Motion on December 21, 2010.

D. The Initial Agency Decision

In her Initial Agency Decision (IAD), the Hearing Officer first set forth the burdens that parties to Part 708 proceedings bear. She stated that in order to prevail, a Complainant must show, by a preponderance of the evidence, that he or she made a protected disclosure, participated in a proceeding, or refused to participate as described in 10 C.F.R. § 708.5, and that such an act was a contributing factor to a retaliatory action. If the Complainant satisfies these requirements, then the

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[2] "Baselining" is adding software revisions to the existing software in the library.

burden shifts to the Respondent to demonstrate, by clear and convincing evidence, that it would have taken the same action absent any protected activity on the part of the Complainant.

The Hearing Officer then discussed the Respondent's Motion to Dismiss. In its Motion, the Respondent argued that the Complainant could not have reasonably believed that his disclosures revealed a substantial risk of harm to employees or the public or a substantial violation of a law, rule or regulation. The Respondent also contended that the complaint must be dismissed because Mr. Chudgar would be unable to show that the individuals who offered him his current position had actual or constructive knowledge of his alleged protected behavior. This is relevant because, under the circumstances in this case, in order to demonstrate that his allegedly protected behavior was a contributing factor to his reassignment, Mr. Chudgar would have to show that the personnel who reassigned him had actual or constructive knowledge of that behavior, and that the reassignment occurred sufficiently close in time to the Complainant's disclosures to permit a reasonable inference that one was a contributing factor to the other. *See, e.g., Ronald Sorri*, Case No. LWA-0001 (1993).

Next, the Hearing Officer described the Complainant's disclosures, and concluded that they did not constitute protected behavior pursuant to 10 C.F.R. Part 708. With regard to Mr. Chudgar's first disclosure, the Hearing Officer stated that on April 8, 2009, Jim Coleman, Production Lead Engineer at WSRC, brought the Complainant a software revision to archive. That revision was titled Computer Program Modification Tracker (CMT) -0133. The revision contained schematics showing a software change of the sort that Mr. Chudgar was tasked with filing, and a hardware change that was implemented using a separate document. [3] This software change was intended to alter the function of a pump that was used to move liquid from one storage tank to another. The software had been tested and accepted on April 7-8, 2009, and was in use prior to Mr. Coleman asking the Complainant to archive the software. According to the Hearing Officer, Mr. Chudgar knew that the software had been tested and accepted by two systems engineers. Mr. Coleman had to make additional changes, but could not continue with his work until the changes in the software package had been archived, thereby establishing a "baseline." The Complainant examined the schematics and realized that they depicted a hardware change, but there was no documentation about the hardware change in the package. Since the documentation did not contain an explanation of the hardware change, Mr. Chudgar refused to archive the software revision. Mr. Coleman explained that the hardware change was controlled by another document. However, the Hearing Officer observed, the Complainant refused to archive the software package and the men argued.

At this point, the Hearing Officer continued, the facts are in dispute. The Respondent claims that Mr. Chudgar did not elevate the issue to management, nor did he call for a "time out" or a "stop work." [4] Motion to Dismiss at 3. According to SRR, management was unaware of this incident until Mr. Chudgar filed his complaint on April 13, 2009. The Complainant, however, contends that on April

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[3]Significant software and hardware changes are controlled by a Design Change Form (DCF). Software changes are tracked using a Computer Program Modification Traveller (CMT).

[4] A "time out" is an informal process used to address safety concerns where an employee (1) feels uncomfortable in performing a task or (2) observes an unsafe condition that he wants corrected.

8, 2009, he called the Quality Assurance Manager, who advised Mr. Coleman to file a Non-Conformance Report (NCR) and enter his concern into the Site Tracking, Analysis and Reporting (STAR) system. [5] There is no evidence that Mr. Chudgar or Mr. Coleman filed an NCR. In fact, Mr. Chudgar left the office for the weekend, assuming incorrectly that Mr. Coleman would not continue with the changes. However, another engineer archived the software changes after the Complainant departed. Mr. Chudgar did not make any further report until April 13, 2009, when he reported this incident to the Office of Employee Concerns. The Office of Employee Concerns then contacted WSRC management about the report, and WSRC investigated the concern and issued a timeout. The investigation concluded that there was no safety concern and that the engineers could file an "as found" document in the software archives. [6]

The Hearing Officer concluded that Mr. Chudgar's communications with WSRC concerning this incident did not constitute a protected disclosure under Part 708 because he could not have had a reasonable belief that his disclosure revealed a substantial and specific danger to employees or to the public. She pointed out that, instead of filing an NCR or calling for a time out, measures that an employee in his position with his level of experience should have taken if he was concerned about public or employee safety, the Complainant left for the weekend. In response to Mr. Chudgar's argument that the QA Manager directed Mr. Coleman to file a NCR, the Hearing Officer concluded that it was not logical that Mr. Coleman, who did not believe that there was any problem, would file such a report. The Hearing Officer did not address the issue of whether the Complainant reasonably believed that this first disclosure revealed a substantial violation of a law, rule, or regulation.

The Hearing Officer then addressed Mr. Chudgar's second alleged protected disclosure. She said that on April 23, 2009, the Complainant amended his concern, claiming that WSRC had violated its procedure when it changed to a new computer operating system. The change involved approximately 500 files, much larger than the typical software update that Mr. Chudgar was assigned to catalog and record. The Complainant reviewed the change documentation and alleged that it violated WSRC procedure because it was lacking the proper approvals by the Facility Operations Safety Committee (FOSC), and because WSRC engineers were not following requirements to supercede previous revisions when "baselining" the files.

The Hearing Officer cited with approval the Respondent's claim that the FOSC only had to approve changes that were "Safety Significant," and that only 20 pages of the 500 page package were safety significant. The Hearing Officer concluded that those 20 pages had indeed been approved. She further found that Mr. Chudgar's manager asked him to identify his concerns and notify the

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[5]A NCR is required when an item fails to satisfy required technical, design or quality requirements, is of indeterminate quality, is found to be suspect (counterfeit), has documentation deficiencies which render the item indeterminate, or meets one or more of the previous conditions but its continued use is required. The STAR system is available to all employees to identify and report safety concerns.

[6]An "as found" document is an existing design document that defines and reflects what the field condition should be. It is placed into a DCF as a convenience for the user.

appropriate manager, but that the Complainant did not do so, and stated that he was satisfied with the package. The Hearing Officer concluded that the fact that Mr. Chudgar could not articulate his concerns when asked undermines the reasonableness of any belief that the new system violated company procedures.

Based on the evidence, the Hearing Officer found that the Complainant could not have reasonably believed that his second disclosure revealed a substantial violation of a law, rule or regulation, or a substantial and specific danger to employee or public health or safety. She cited FOSC's approval of the portion of the change package that was "safety significant," the Complainant's knowledge that the software changes had been successfully tested, that the rules cited by Mr. Chudgar were not applicable to the engineering procedures that the Complainant catalogued, and his inability to articulate to the Respondent, when asked, any safety problem that he found with the changes.

The Hearing Officer further stated that, even if either of the Complainant's two disclosures could be considered to be protected under Part 708, he would not be able to show that either of the two disclosures was a contributing factor to an act of retaliation. Specifically, the Hearing Officer concluded that the people who decided to offer the Complainant his current position did not have actual or constructive knowledge of the disclosures and the alleged retaliatory act did not occur sufficiently soon after the disclosures to permit a reasonable inference that the disclosure was a contributing factor. Furthermore, she found that Mr. Chudgar's reassignment to a non-engineering position did not constitute a retaliation because it had no negative effect on the terms and conditions of the Complainant's employment.

E. The Statement Of Issues

Mr. Chudgar's Statement of Issues was largely unresponsive to the Hearing Officer's findings in the IAD. [7] For example, a substantial portion of the Statement was devoted to the ratings given to him by the management team that offered him his current position, even though they were not a significant factor in the Hearing Officer's decision. Moreover, the Statement did not address the Hearing Officer's conclusions that the Complainant could not have had a reasonable belief that his

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[7]Mr. Chudgar's response to the IAD was set forth in its entirety in his Notice of Appeal. In a letter to the Complainant dated January 13, 2011, the OHA acknowledged receipt of the Notice, and stated that, although the Notice included some discussion of the relevant issues, a more complete explanation of the basis for his Appeal was needed. Our letter then briefly described the bases for the Hearing Officer's decision, and said that Mr. Chudgar should identify the Hearing Officer's findings with which he disagreed and the reasons for that disagreement. *See* January 31, 2011, letter from Poli Marmolejos, Director, OHA, to Vinod Chudgar.

In a telephone conversation with Robert Palmer of this Office, Mr. Chudgar stated that he did not intend to make another filing regarding his Appeal, and that he wished for his Notice of Appeal to also serve as his Statement of Issues. *See* memorandum of February 15, 2011, telephone conversation between Mr. Chudgar and Mr. Palmer. For this reason, I have referred to his Notice as his Statement of Issues in the body of this Decision.

disclosures revealed a substantial and specific danger to employees or to the public. Also not discussed in the Statement were the Hearing Officer's findings that the management team that offered him his current position did not have actual or constructive knowledge of the individual's disclosures, that the alleged retaliation did not occur soon enough after the disclosures to allow for a reasonable inference that the disclosures were a contributing factor, and that the Complainant's reassignment did not constitute retaliation because it did not materially and adversely affect the terms and conditions of his employment. Instead, the Statement focused on Mr. Chudgar's claim that he reasonably believed that his disclosures revealed a substantial violation of a law, rule, or regulation.

II. ANALYSIS

As set forth above, the Respondent filed a Motion to Dismiss, and in the IAD, the Hearing Officer granted that Motion. However, because the Hearing Officer's analysis went beyond an examination of the sufficiency of the complaint and was in fact a ruling on the merits of the case, it can be more accurately described as a summary judgement in favor of the Respondent. I will therefore evaluate the IAD using standards established for summary judgements in prior Decisions of this Office and in the federal courts.

The Part 708 regulations do not include procedures and standards governing summary judgment. I note, however, that the Federal Rules of Civil Procedure provide that a Motion for Summary Judgement shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). While the Federal Rules do not govern this proceeding, Rule 56 has been used as a guide in the evaluation of Motions for Summary Judgment filed in a Part 708 proceeding. *See Colleen* Monk, Case No. TBA-0105 (2011); *Edward J. Seawalt*, Case No. VBZ-0047 (2000). In *Mary Ravage*, Case No. TBA-0102 (2011), we stated that summary judgment may be entered, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact," since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial. We further said that in such a case, the moving party is "entitled to a judgment as a matter of law" because the nonmoving party has failed to make a sufficient showing on an essential element of his case with respect to which he has the burden of proof. *Celotex v. Catrett*, 106 S. Ct. 2548, 2552-2553 (1986). The Supreme Court has further articulated the following test: "If the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no genuine issue for trial." *Matsushita v. Zenith Radio Corp.*, 475 U.S. 574, 597 (1986).

Because the IAD involved questions of law, we will review the Hearing Officer's findings *de novo*. For the reasons set forth below, I conclude that, after an ample opportunity for discovery, the Complainant is unable to establish, by a preponderance of the evidence, the existence of an element essential to his case, and on which he bears the burden of proof. Consequently, no purpose would be served by proceeding to a hearing in this matter.

A. Mr. Chudgar's Disclosures Did Not Reveal A Substantial And Specific Danger To Employees Or To The Public

After reviewing the record in this matter, I agree with the Hearing Officer that Mr. Chudgar could not have reasonably believed that his disclosures revealed a substantial and specific danger to the health or safety of employees or of the public. As an initial matter, the Complainant did not call for a time out nor did he file a NCR with regard to either of his disclosures, actions that one would reasonably expect an employee of Mr. Chudgar's level of experience to take when faced with a dangerous condition. Moreover, with regard to the first disclosure, both WSRC and the DOE investigated the issue, and concluded that there was no safety concern. *See* Affidavit of David B. Little, Deputy Chief Engineer, SRR. Finally, concerning the second disclosure, the record supports, and the Complainant did not dispute, the Hearing Officer's finding that WSRC's safety committee had examined and approved the documents in question and Mr. Chudgar knew that the software changes had been successfully tested. Consequently, I will not disturb the Hearing Officer's findings on this point.

B. Whether Mr. Chudgar Reasonably Believed That His Disclosures Revealed A Substantial Violation Of A Law, Rule, Or Regulation

As previously stated, Mr. Chudgar's Statement of Issues focused on his contention that he reasonably believed that his disclosures revealed a substantial violation of a law, rule, or regulation. Specifically, he argues that WSRC's actions regarding CMT-1033 were taken in violation of the provisions governing Design Change Forms set forth in Engineering Manual E-7, Procedure 2.37. Statement at 1. He contends that his second disclosure revealed a violation of company rules set forth in Procedures 2.37 and 2.38. Statement at 2.

There is some support in the record for the Complainant's claim that he reasonably believed that his first disclosure revealed a substantial violation of company procedures. During the WSRC investigation of the Complainant's Employee Concern, the investigator concluded that "Manual E7, Procedure 2.37 *Design Change Form* requirements were violated during implementation of the referenced documents [CMT-1033]." *See* June 18, 2009 letter from Larry Adkinson, Lead Investigator, WSRC ECP, EEO & Ethics, to Mr. Chudgar (italics in original). However, because I conclude, in section II.C below, that the Complainant did not suffer retaliation as a result of his disclosures, I do not believe that further development of the record on this point at a hearing is required.

As for the second disclosure, there is no support for the proposition that the Complainant reasonably believed that it revealed a substantial violation of a law, rule, or regulation. In his Statement, Mr. Chudgar contends that WSRC engineers violated Procedures 2.37 and 2.38 and Manual 2s, Procedure 1.3 by not superceding previous software revisions before baselining the files. However, there is evidence in the record that, while this may have been the better practice, there were no company rules that required that revisions be done in this way. *See* May 11, 2009 electronic mail from the Complainant's manager, Tony Tipton, to the Complainant. The Complainant failed to point out the language in the rules that he cited that specifically prohibits the practices that he complained of, and after reviewing those provisions, I find no reasonable basis for the Complainant's belief.

According to the IAD, this is consistent with the experiences of the Respondent's investigation team, who asked Mr. Chudgar to clarify his contention that WSRC had not followed proper procedure in changing to a new computer operating system. The Hearing Officer's findings that the Complainant did not provide any clarification and the team still did not understand his concern was not disputed by Mr. Chudgar. His inability to point to specific company rules and clearly explain how WSRC's actions violated those rules strongly suggests that Mr. Chudgar did not reasonably believe that his second disclosure revealed a substantial violation of a law, rule, or regulation.

C. The Complainant's Reassignment Did Not Constitute Retaliation Under The Part 708 Regulations

Pursuant to 10 C.F.R. § 708.2, "retaliation" means "an action (including intimidation, threats, restraint, coercion or similar action) taken by a contractor against an employee with respect to employment (*e.g*., discharge, demotion, or other negative action with respect to the employee's compensation, terms, conditions or privileges of employment) as a result of the employee's disclosure of information, participation in proceedings, or refusal to participate in activities described in § 708.5 of this subpart."

Mr. Chudgar contends that his reassignment from his previous position as a Senior Engineer A to his current position as a Principal Process Computer Analyst constituted retaliation. However, it is undisputed that he is currently employed at the same salary and grade level that he was previously receiving. [8] Moreover, there is ample evidence in the record to indicate that the Complainant was not using his engineering background in his previous position, and that his current assignment is not dissimilar to what he was doing before. During his June 17, 2010, interview with the OHA Investigator, Clifford Winkler, Chief Engineer, SRR and a member of the transition management team, stated that the job offer to Chudgar matched his previous assignment, where he worked with computers. Mike McEver, Manager, Tank Farms Process Controls Support Group, SRR, told the Investigator on June 23, 2010, that the Complainant's former job did not require an engineering background, and that Mr. Chudgar was not utilizing that background in his position. He characterized the baselining of software, in which the Complainant was engaged, as "an IT function." Tony Tipton and Albert Zaharia, his former manager and co-worker, respectively, described his previous duties as managing data and computer software. *See* memoranda of OHA Investigator's interviews with Mr. Tipton on June 24, 2010 and Mr. Zaharia on June 30, 2010. The evidence in the record indicates that the reassignment did not adversely affect the terms and conditions of the individual's employment, and therefore did not constitute "retaliation" as that term is defined in the Part 708 regulations. *See Mark D. Siciliano*, Case No. TBH-0098 (2010).

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[8] The Complainant claims that in his previous position, he was able to work a substantial amount of overtime that is currently unavailable to him. However, after an ample opportunity for discovery, he was unable to submit any evidence to support this contention.

III. CONCLUSION

I agree with the Hearing Officer's findings regarding the Complainant's second disclosure, and with the Hearing Officer's conclusion that the first disclosure did not reveal a substantial and specific danger to employees or to the public. Although the Hearing Officer did not address the Complainant's claim that his first disclosure also revealed a substantial violation of a law, rule or regulation, I agree with the Hearing Officer's dismissal of the Complaint, because I conclude that the Respondent did not retaliate against the Complainant. Accordingly, I will deny the Appeal.

It Is Therefore Ordered That:

(1) The Appeal filed by Vinod Chudgar from the Initial Agency Decision issued on January 13, 2011, Case No. TBA-0100, is hereby denied.

(2) This Appeal Decision shall become a Final Agency Decision unless a party files a petition for Secretarial review with the Office of Hearings and Appeals within 30 days after receiving this decision. 10 C.F.R. § 708.35.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Date: