



Department of Energy
Washington, DC 20585

JUN - 5 2012

Mr. Gennady Ozeryansky
39 Newbridge Circle
Cheshire, CT 06410

Re: OHA Case No. TBB-0119

Dear Mr. Ozeryansky:

This letter concerns the Petition for Secretarial Review that you filed on September 24, 2011, relating to the complaint of retaliation that you filed on August 26, 2010, with the Employee Concerns Program (ECP) Manager of the Department of Energy under 10 C.F.R. Part 708, the DOE Contractor Employee Protection Program.

The ECP Manager issued a determination on July 13, 2011, dismissing your complaint. On July 29, 2011, you filed an appeal of the July 13 Determination and, on August 29, 2011, the Director of the Office of Hearings and Appeals (OHA) affirmed the dismissal of the complaint. On September 24, 2011, you filed a Petition for Secretarial Review of the dismissal of the OHA appeal decision, followed by a September 29, 2011, statement of issued presented for review. On November 16, 2011, SupraMagnetics filed a Response in Opposition to the Secretarial Review.

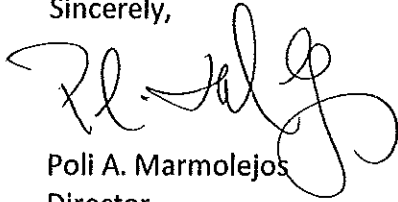
Under the Part 708 regulations, the Secretary will reverse or revise an appeal decision by the Director of the Office of Hearings and Appeals (OHA) only under extraordinary circumstances. 10 C.F.R. § 708.19(d). Your statement in support of the petition contends that OHA erred in denying you protection from retaliation under Part 708, and that OHA's decision presents extraordinary circumstances meriting the intervention of the Secretary. However, far from demonstrating the requisite "extraordinary circumstances" necessary to warrant Secretarial intervention, the petition does not reveal any error in OHA's determination that, because SupraMagnetics is not a contractor or subcontractor as defined by 10 C.F.R § 708.2, there is no jurisdiction under Part 708 for consideration of your complaint.

The Secretary of Energy has delegated the responsibility of reviewing Petitions for Secretarial Review in cases arising under 10 C.F.R. Part 708 to the Deputy Secretary of Energy. The Deputy Secretary has authorized me to send you this letter dismissing the petition for failure to demonstrate extraordinary circumstances warranting reversal or revision of OHA's determination. Accordingly, the Petition for Secretarial Review filed in Case No. TBB-0119 is hereby dismissed.



If you have any questions regarding this letter, please call Kimberly Jenkins-Chapman, Attorney-Examiner, Office of Hearings and Appeals, at (202) 287-1499.

Sincerely,

A handwritten signature in black ink, appearing to read "Poli A. Marmolejos", written in a cursive style.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

cc: Pat Zarate
Employee Concerns Program Manager
ED-4
Fors. Rm. 5B-148

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