SECTION 31

The Board held that as employer's complaint was not an action to enforce compliance with a direct order of the administrative law judge, and claimant did not disobey a lawful process, as he did not resist the administrative law judge's jurisdiction or a discovery order, employer's attempt to recoup benefits allegedly obtained by fraud must fail. Section 31(a) provides the sole remedy against a claimant who has allegedly filed a false claim. The Board therefore reversed the administrative law judge's finding that Section 27(b) is applicable and vacated his certification of facts to the district court and the recommendation that claimant be made to repay employer. *Phillips v. A-Z Int'l*, 30 BRBS 215 (1996), *vacated,* 179 F.3d 1187, 33 BRBS 59(CRT) (9th Cir. 1999).

The Ninth Circuit held that the Board lacked jurisdiction to review the administrative law judge's certification of facts to the district court and the recommendation that claimant be made to repay employer. The court held that the express grant of fact finding and contempt power to the district pursuant to Section 27(b) implicitly removes review power from the Board. In the absence of a clear statutory directive or interpretive regulations setting forth the procedural mechanism by which an administrative law judge must "certify the facts to the district court," the court held that the administrative law judge's issuance of his Supplemental Decision and Amended Supplemental Decision, which certified his finding that claimant filed a fraudulent claim and recommended sanctions, was a sufficient method of certification to the district court. *A-Z Int'l v. Phillips*, 179 F.3d 1187, 33 BRBS 59(CRT) (9th Cir. 1999), *vacating* 30 BRBS 215 (1996).

The Board held that employer has no direct remedy for reimbursement against Brad Valdez under the Act in this case. Specifically, employer is not entitled to relief against the fraud committed by Brad Valdez in this case under Sections 19, 27, and 31 of the Act. The Board noted that the Act provides only for a credit of excess payments against unpaid compensation due; no further compensation is due in this case to this claimant. Moreover, Section 31(a) provides the sole remedy against a claimant who has allegedly filed a false claim, and thus, employer's only remedy is to file a complaint with the appropriate United States Attorney. *Valdez v. Crosby & Overton*, 34 BRBS 69, *aff'd on recon.,* 34 BRBS 185 (2000).

The filing by claimant of a fraudulent claim for benefits under the Act does not constitute disobeying or resisting any “lawful order or process” within the meaning of Section 27(b), as the term “lawful process” in the context of the contempt power generally refers to the use of summons, writs, warrants or mandates issuing from a court in order to obtain jurisdiction over a person, and claimant in this case did not refuse to comply in this manner. Moreover, the Act expressly provides mechanisms other than contempt sanctions, under Sections 31(a) and 48, for the filing of a fraudulent claims, demonstrating that Congress did not intend to permit an employer to seek a contempt citation in order to recover damages resulting from filing of fraudulent claims. Therefore, the Ninth Circuit affirmed the district court’s dismissal of employer’s complaint with prejudice, without addressing employer’s arguments on the merits, on the ground that the district court lacked subject matter jurisdiction to impose sanctions on claimant. *A-Z Int’l v. Phillips*, 323 F.3d 1141, 37 BRBS 1(CRT) (9th Cir. 2003).