



In the Matter of:

MARK C. TWYMAN,

ARB CASE NO. 2011-0031

COMPLAINANT,

ALJ CASE NO. 2010-SOX-00055

v.

DATE: April 5, 2021

TAXMASTERS, INC.,

RESPONDENT.

**Before: James D. McGinley, *Chief Administrative Appeals Judge*, and
Thomas H. Burrell, *Administrative Appeals Judge***

DISMISSAL ORDER

This case arises under the whistleblower protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act (SOX), and its implementing regulations.¹ While the case was pending review by the Administrative Review Board, the Respondent, TaxMasters, Inc., (TaxMasters), filed in March 2012, for bankruptcy protection. That filing triggered the automatic stay provision of the Bankruptcy Code which applies “to continuation of any judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement” of the bankruptcy case. 11 U.S.C. §§ 362(a)(1), (c)(2) (2020). On August 2, 2012, the Administrative Review Board issued an Order Staying Proceedings until further notice.

On August 10, 2018, the Board issued an order amending a prior order and ordered TaxMasters to provide a status update of the bankruptcy proceedings on a quarterly basis starting with September 2018. The most recent status report the

¹ 18 U.S.C. §1514A (2010); 29 C.F.R. Part 1980 (2020).

Board received was dated August 27, 2019. The Board has received no further notice regarding the status of the bankruptcy proceedings from either party.

On February 4, 2021, the Board issued an Order to Show Cause to the parties ordering the parties to respond no later than February 22, 2021, to explain why the Board should not dismiss this case on the grounds of abandonment. The Board cautioned that failure to timely respond to the order may result in the dismissal of this case without further order. As of the date of this Order, the parties have not responded.

The Board's authority to effectively manage its docket, including authority to require compliance with the Board orders, is necessary to "achieve orderly and expeditious disposition of cases."² This Board has authority to issue sanctions, including dismissal, for a party's failure to comply with the Board's orders and briefing requirements.³ Accordingly, this case is **DISMISSED**.

SO ORDERED.

² *Santoro v. Tekni-Plex, Inc.*, ARB No. 2011-0052, ALJ No. 2010-SOX-00046 (ARB Aug. 5, 2011) (citing *Link v. Wabash*, 370 U.S. 626, 630-31 (1962) ("The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an 'inherent power,' governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases".)).

³ *Id.*