

U.S. Department of Labor

Administrative Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



IN THE MATTER OF:

SACHIN SHAH,

ARB CASE NO. 2020-0063

COMPLAINANT,

ALJ CASE NO. 2019-SOX-00015

v.

DATE: November 4, 2022

ALBERT FRIED & COMPANY,

and

TD SECURITIES LLC,

RESPONDENTS.

Appearances:

For the Complainant:

Sachin Shah; *pro se*; North Caldwell, New Jersey

For the Respondents:

S. Jeanine Conley Daves, Esq.; Jonathan Shapiro, Esq.; *Little Mendelson, P.C.*; New York, New York

Before HARTHILL, Chief Administrative Appeals Judge, and BURRELL and PUST, Administrative Appeals Judges

**ORDER DENYING MOTION FOR RECONSIDERATION WITHOUT
PREJUDICE AND WITH LEAVE TO REFILE**

HARTHILL, Chief Administrative Appeals Judge:

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 or Section 806), as amended, and its implementing

regulations.¹ On August 22, 2022, the Administrative Review Board (ARB or Board) issued a Decision and Order, dismissing the case of Sachin Shah (Complainant or Shah).

On October 19, 2022, Complainant filed a 150-page Motion for Reconsideration (Motion) with approximately 369 pages of exhibits. Complainant's Motion exceeds the length limitations outlined in the Board's Notice of Appeal and Order Establishing Briefing Schedule (Briefing Schedule), issued on September 2, 2020. The Briefing Schedule notes that "All motions ... shall be in the form of a motion appropriately captioned, titled, formatted and signed, consistent with FRAP 27(d)."² FRAP 27(d) states that "a motion or response to a motion produced using a computer must not exceed 5,200 words."³ 5,200 words is approximately 16 pages, while Complainant's Motion is 150 pages. Accordingly, the Board denies Complainant's Motion for Reconsideration without prejudice and with leave to refile in compliance with the Briefing Schedule's length limitations and within the timeframe outlined below.⁴

The parties may file a compliant Motion for Reconsideration, Response, and Reply according to the following schedule:

- Complainant may refile a Motion for Reconsideration within fifteen (15) calendar days of this Order.
- Respondents may file a Response within ten (10) calendar days of service of a new Motion for Reconsideration if Complainant decides to refile.
- Complainant may file a Reply within seven (7) calendar days of service of the Response.⁵

¹ 18 U.S.C. § 1514A; 29 C.F.R. Part 1980 (2022).

² Briefing Schedule at 3.

³ FED. R. APP. P. 27(d).

⁴ See *Boch v. J.P. Morgan Sec.*, ARB No. 2022-0029, ALJ Nos. 2020-CFP-00002, 2020-SOX-00004, slip op. at 2 (ARB June 15, 2022) ("The Board has the inherent 'authority to effectively manage its docket'" and "can 'issue sanctions, including dismissal, for a party's failure to comply with the Board's orders and briefing requirements.'") (quotations and citations omitted). This admonition extends to *pro se* parties as well. *Powers v. Pinnacle Airlines, Inc.*, ARB No. 2006-0078, ALJ Nos. 2006-AIR-00004, -00005, slip op. at 6-7 (ARB June 28, 2007) (dismissing an appeal where a *pro se* complainant failed to comply with the Board's briefing order in part by filing an opening brief that exceeded the page limitation).


⁵ "[A] reply produced using a computer must not exceed 2,600 words." FED. R. APP. P. 27(d).

For the foregoing reasons, we **DENY** the Complainant's Motion for Reconsideration without prejudice and with leave to refile a compliant Motion within the timeframe outlined herein.⁶

SO ORDERED.



SUSAN HARTHILL
Chief Administrative Appeals Judge



THOMAS H. BURRELL
Administrative Appeals Judge



TAMMY L. PUST
Administrative Appeals Judge

⁶ In determining whether to reconsider a prior decision, the Board requires the movant to sufficiently demonstrate any of the following:

- (i) material differences in fact or law of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the court's decision, (iii) a change in the law after the court's decision, or (iv) failure to consider material facts presented to the court before its decision.

Klein v. Bank of Am., ARB No. 2022-0016, ALJ 2020-SOX-00039, slip op. at 2-3 (ARB May 19, 2022) (citation omitted).