



BRB No. 15-0244

JOHN N. WOODS)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
HARRY PEPPER AND ASSOCIATES,)	DATE ISSUED: <u>June 23, 2015</u>
INCORPORATED)	
)	
Employer-Respondent)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS,)	
UNITED STATES DEPARTMENT OF)	
LABOR)	
)	
Party-in-Interest)	ORDER

Claimant, without legal representation, has filed a timely notice of appeal challenging a letter he received from the Director, Office of Workers' Compensation Programs (the Director), dated March 20, 2015. This letter states that as claimant failed to appeal the approval of the parties' Section 8(i) settlement within 30 days of the date it was approved in September 2010, that settlement agreement has become final and claimant is without remedy for his complaints. *See n. 1, infra.*

Claimant's appeal must be dismissed. Section 802.201(a) of the Board's regulations, 20 C.F.R. §802.201(a), provides that "[a]ny party or party-in-interest adversely affected or aggrieved by a decision or order . . . may appeal a decision or order of an administrative law judge or [district director]. . . ." (emphasis added). Similarly, Section 702.392 of the regulations provides:

An appeal raising a substantial question of law or fact may be taken from a *decision* with respect to a claim under the Act. Such appeals may be taken from *compensation orders* when they have been filed as provided for in [20 C.F.R. §702.349].

20 C.F.R. §702.392 (emphasis added); *see also Maria v. Del Monte/Southern Stevedore*, 22 BRBS 132 (1989) (letter notifying the claimant that the Special Fund was suspending his compensation until a statutory credit was recouped was not a final appealable order);

20 C.F.R. §802.205(a) (establishing the time for filing a notice of appeal of a “decision or order [that] has been filed” by the district director). Consequently, as the Director’s letter is not a final “decision or order,” it is not appealable under Section 21(b)(3) of the Act, 33 U.S.C. §921(b)(3), and we must dismiss claimant’s appeal of this letter. *Maria*, 22 BRBS 132.

Accordingly, claimant’s appeal, BRB No. 15-0244, is dismissed. The case is remanded to the district director’s office for the district director to investigate and address claimant’s allegations and to issue an order resolving the matter.¹

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

RYAN C. GILLIGAN
Administrative Appeals Judge

¹ Claimant alleges, inter alia, fraud in the 2010 settlement proceedings. 33 U.S.C. §908(i). Generally, an approved settlement agreement is final if no appeal is taken within 30 days of the date the district director files the compensation order approving the settlement. *Jeschke v. Jones Stevedoring Co.*, 36 BRBS 35 (2002); *Diggles v. Bethlehem Steel Corp.*, 32 BRBS 79 (1988); *Rochester v. George Washington Univ.*, 30 BRBS 233 (1977); *see also* 33 U.S.C. §922 (settlements are not subject to modification). However, the Board has left open the possibility that, under the Act, a settlement may be re-opened as a matter of equity if a party establishes that the settlement was fraudulently secured. *Downs v. Texas Star Shipping Co., Inc.*, 18 BRBS 37 (1986), *aff’d sub nom. Downs v. Director, OWCP*, 803 F.2d 193, 19 BRBS 36(CRT) (5th Cir. 1986). Consequently, the district director should address claimant’s allegations or, if necessary, refer this matter to the Office of Administrative Law Judges for resolution. Any party aggrieved by a final order of the district director or administrative law judge may file an appeal with the Board within 30 days of the date the order is filed by the district director. 33 U.S.C. §921(a), (b); 20 C.F.R. §802.205.