



Certified Mail: 7012 0470 0001 6790 1058

September 24, 2014

Corey Barnes
459 E. Highland Cir
Centennial, CO 80122

RE: BASF Chemical Company / Barnes / 8-0740-14-070
Corporate Management Group / Barnes / 8-0740-14-070

Dear Mr. Barnes;

This is to advise you that we have completed our investigation of the above-referenced complaint filed by you ("Complainant"), against BASF Chemical Company and Corporate Management Group, LLC. ("Respondents"), on August 14, 2014, under the employee protection provisions of Section 11(c) of the Occupational Safety and Health Act, 29 U.S.C. 660(c). In brief, you alleged Respondent terminated your employment on August 6, 2014, in retaliation for reporting a chemical exposure that resulted in medical attention.

Following an investigation of this matter by a duly authorized investigator, the Secretary of Labor, acting through his agent, the Regional Administrator for OSHA, Region VIII, finds there is no reasonable cause to believe Respondent(s) violated the above statute and issues the following findings:

Secretary's Findings

Jurisdiction:

BASF Chemical Company is a person within the meaning of 29 U.S.C. §652(4). BASF Chemical Company operates in a variety of markets. BASF Chemical Company's organization is divided in the following areas: Chemicals, Plastics, Performance Products, Functional Solutions, Agricultural Solutions and Oil & Gas. BASF Chemical Company maintains its headquarters in Ludwigshafen, Germany; however, has locations worldwide.

Corporate Management Group is a person within the meaning of 29 U.S.C. §652(4). Respondent is an employment referral service. Respondent maintains a place of business in Troy, New York.

Complainant was an employee within the meaning of 29 U.S.C. §652(6). Corporate Management Group hired Complainant on March 20, 2014, and referred him to BASF Chemical Company as a packer. Therefore, Respondent(s) and Complainant are covered under the provisions of the above-mentioned Act.

Complainant's employment was terminated on August 6, 2014; he filed a complaint with the Secretary of Labor on August 14, 2014, alleging Respondent discriminated against him in violation of the above listed statute. As this complaint was filed within 30 days of the alleged adverse action, it is deemed timely.

Investigative Findings:

On March 20, 2014, Complainant began working for BASF Chemical Company as a packer, via a contract from Corporate Management Group.

On May 23, 2014, Complainant alleged he was escorted by his manager away from his work station due to a chemical leak while working for BASF Chemical Company. There were no witnesses to corroborate this incident and BASF Chemical Company denied having a chemical spill. That day, Complainant alleged he informed his immediate supervisor of the chemical exposure and sought treatment from a local hospital; however, BASF Chemical Company denied Complainant informed them he was exposed to chemicals or sought medical treatment. In addition, there were no medical records to support the visit to the hospital.

On August 6, 2014, BASF Chemical Company contacted Corporate Management Group to inform them Complainant's employment was being terminated based on poor performance. Specifically, Complainant could not work on equipment without assistance. Complainant was told that same day, his employment was being terminated.

On August 12, 2014, Complainant contacted the manager of Corporate Management Group and asked where to send a bill for medical treatment that took place on May 23, 2014.

Analysis:

Complainant allegedly engaged in protected activity on May 23, 2014, when he had a chemical exposure. Respondents denied Complainant ever reported a chemical exposure and there were no witnesses to corroborate the alleged protected activity. Complainant was subjected to an adverse employment action when his employment was terminated on August 6, 2014. There is timing, since the alleged protected activity took place 10 weeks prior to the alleged adverse action; however, there is no evidence of animus. These circumstances are sufficient to establish a causal link between the protected activity and the adverse employment action.

BASF Chemical Company contended they had no knowledge of Complainant's alleged protected activity that took place on May 23, 2014, until they were contacted by Corporate Management Group days after Complainant's employment was terminated. BASF Chemical Company contended Complainant's employment was terminated based on performance issues. BASF Chemical Company has terminated other employees based on the same or similar performance deficiencies.

Corporate Management contended on August 6, 2014, BASF Chemical Company called the human resources manager and stated Complainant's employment was being terminated for performance deficiencies. Corporate Management Group's had no knowledge of Complainant's alleged protected activity that took place on May 23, 2014, until Complainant called days after his employment was terminated and asked where to send a medical bill. Furthermore, Corporate Management Group stated Complainant never missed a day of work nor did he complete a workers compensation claim, which Complainant corroborated.

The preponderance of the evidence indicated even if Complainant engaged in protected activity, there is insufficient evidence to establish Respondent had knowledge of the alleged protected activity. Moreover, there were no witnesses to corroborate the protected activity and the first time Complainant addressed the chemical exposure was days after his employment had been terminated. Therefore, Complainant has not established a prima facie case showing

discrimination. Consequently, this complaint is hereby dismissed.

Objections:

Complainant has 15 calendar days after receiving these Findings to file an appeal otherwise this case will be closed. Objections must be filed in writing with:

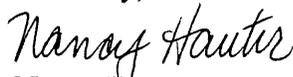
Directorate of Whistleblower Protection Programs
U.S. Department of Labor – OSHA
200 Constitution Avenue, N.W.
Room N3112
Washington, D.C. 20210

With a copy to:

Cory Wilson, Regional Supervisory Investigator
USDOL-OSHA
1244 Speer Blvd., Suite 551
Denver, Colorado 80204
(720) 264-6550 work; (720) 264-6585 fax

To be considered, an appeal must be postmarked within 15 calendar days of receipt of this letter. If this finding is appealed, then the Directorate of the Whistleblower Protection Program will review the case file in order to ascertain whether the investigator dealt adequately with all factual issues and the investigation was conducted fairly and in accordance with applicable laws. The outcome of an appeal is either the return of the case to the investigator for further investigation or denial of the appeal, after which the case is closed.

Sincerely,



Nancy Hauter
Acting Regional Administrator, VIII

cc:

BASF Chemical Company **Certified Mail: 7012 0470 0001 6790 1065**

Attn: Jason Norfleet

10601 Fulton St.

Brighton, CO 80601

Corporate Management Group, LLC. **Certified Mail: 7012 0470 0001 6790 1072**

Attn: Tina Krol

12000 N. Washington St.

Thornton, CO 80241