

**Department of Health and Human Services  
DEPARTMENTAL APPEALS BOARD  
Appellate Division**

Gregory F. Antone  
Docket No. A-15-99  
October 8, 2015

**RECOMMENDED DECISION DECLINING REVIEW OF  
ADMINISTRATIVE LAW JUDGE DECISION**

This case is before the Departmental Appeals Board (DAB) on a notice of appeal filed by Gregory F. Antone (Respondent). Respondent appealed a July 20, 2015 Administrative Law Judge (ALJ) decision, *Gregory F. Antone*, DAB CR4051 (2015). In that decision, the ALJ determined that, in accordance with his April 21, 2015 Ruling, Respondent had violated section 1129(a)(1)(C) of the Social Security Act.\* However, in that decision, the ALJ reduced the civil money penalty from \$33,500 as proposed by the Inspector General of the Social Security Administration (SSA IG) to \$31,000, and reduced the assessment in lieu of damages from \$94,463.60 as proposed by the SSA IG to \$87,414.07.

The regulations governing appeals to the DAB in administrative proceedings to enforce section 1129(a)(1)(C) provide that the DAB “will limit its review to whether the ALJ’s initial decision is supported by substantial evidence on the whole record or contained error of law.” 20 C.F.R. § 498.221(i). The DAB may remand a case to the ALJ for further proceedings or may issue to the Commissioner of Social Security (Commissioner) a recommended decision to decline review or affirm, increase, reduce, or reverse the penalty determined by the ALJ. 20 C.F.R. § 498.221(h).

We considered each of the contentions made by Respondent in the brief accompanying his notice of appeal and examined the record. Applying the appropriate standard of review, we find no basis to disturb the ALJ’s factual findings or legal conclusions on any issue. Consequently, we issue this recommended decision to decline review of the ALJ’s July 20, 2015 decision.

This recommended decision becomes the final decision of the Commissioner 60 days after the date on which it is served on the parties and the Commissioner, unless the Commissioner reverses or modifies the recommended decision within that 60-day period.

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\* In his April 21, 2015 Ruling, the ALJ entered partial summary judgment in the SSA IG’s favor, concluding that the undisputed material facts demonstrated that Respondent had violated the statute and that the SSA IG therefore had a basis to impose a civil money penalty and assessment in lieu of damages. The ALJ left open the issue of the amount of civil money penalty and assessment in lieu of damages for resolution at a later time. In his July 20, 2015 decision, the ALJ summarily restated his April 21, 2015 Ruling.

20 C.F.R. § 498.222(a). If the Commissioner does not reverse or modify the recommended decision, the DAB will serve a copy of the Commissioner's final decision on the parties. If the Commissioner reverses or modifies the recommended decision, the Commissioner shall serve a copy of her final decision on Respondent.

### Appeal Rights

Pursuant to section 1129(d)(1) of the Act, a person adversely affected by a final decision of the Commissioner may appeal that decision by filing a petition for judicial review in the appropriate United States Court of Appeals. 42 U.S.C. § 1320a-8(d)(1). The petition for judicial review must be filed within 60 days after the person is served with a copy of the Commissioner's final decision. 20 C.F.R. § 498.222(c)(1). If a petition for judicial review is filed, a copy of the filed petition must be sent by certified mail, return receipt requested, to SSA's General Counsel at the following address:

Social Security Administration  
Office of the General Counsel  
Office of General Law  
6401 Security Blvd.  
Room 617 Altmeyer Bldg.  
Baltimore, MD 21235

*See* 20 C.F.R. § 498.222(c)(2).

\_\_\_\_\_/s/  
Constance B. Tobias

\_\_\_\_\_/s/  
Leslie A. Sussan

\_\_\_\_\_/s/  
Susan S. Yim  
Presiding Board Member