

**U.S. Department of Labor** Occupational Safety and Health Administration  
230 South Dearborn Street, Room 3244  
Chicago, Illinois 60604  
(312) 353-2220



OCT 7 2014

Certified Mail # 7013 3020 0000 3285 0152

Cary Schwimmer  
Law Offices of Cary Schwimmer  
The Colonnade  
1661 International Place Dr. STE 400  
Memphis, TN 38120

Re: \_\_\_\_\_

Dear Mr. Schwimmer,

Attached are the Secretary's Findings for the above referenced complaint. These findings were also sent to Complainant, Ms. Carol Cannon.

Complainant is afforded the opportunity to file an appeal of this dismissal with the Chief Administrative Law Judge, Office of Administrative Law Judges, U.S. Department of Labor-OSHA, located in Washington, D.C., within 30 days of receipt of these findings. In the event that no appeal action is taken by the Complainant, this case will be considered closed.

If at any time, you have any questions or require any information regarding employee rights and employer responsibilities under the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), please feel free to contact this office by mail or telephone.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Crouse".

Tim Crouse  
Regional Supervisory Investigator

Enclosure: Secretary's Findings

U.S. Department of Labor

Occupational Safety and Health Administration  
230 South Dearborn Street, Room 3244  
Chicago, Illinois 60604  
(312) 353-2220



OCT 7 2014

Certified # 7013 3020 0000 3285 0145

Carol Cannon  
144 North Doran Rd.  
Imlay City, MI 48444

Dear Ms. Cannon:

This is to advise you that we have completed our investigation of the above-referenced complaint filed by you (Complainant) against Stant USA, Inc. (Respondent) on December 30, 2013, under the Moving Ahead for Progress in the 21st Century Act (MAP-21), 49 U.S.C. §30171. In brief, you alleged that Respondent terminated your employment on October 28, 2013, and subsequently blacklisted you from employment at a separate company on January 24, 2014, in reprisal for providing to your employer information relating to a motor vehicle defect and information relating to noncompliance with Federal Motor Vehicle Safety Standards (FMVSS).

Following an investigation by a duly authorized investigator, the Secretary of Labor, acting through his agent, the Regional Administrator for the Occupational Safety and Health Administration (OSHA), Region V, finds that there is no reasonable cause to believe that Respondent violated the Moving Ahead for Progress in the 21st Century Act (MAP-21), 49 U.S.C. §30171, and issues the following findings:

#### Secretary's Findings

Respondent is a tier one manufacturer of automotive vapor management systems, fuel delivery systems, and thermal management systems. Respondent sells its fuel systems directly to large scale automotive original equipment manufacturers (OEMs). Respondent is a motor vehicle parts supplier within the meaning of 49 U.S.C. §30171. Complainant was an Advanced Quality Engineer for Respondent and is therefore a covered employee within the meaning of 49 U.S.C. §30171.

Complainant alleged that Respondent terminated her employment on October 28, 2013. On December 30, 2013, Complainant filed a complaint with the Secretary of Labor alleging that Respondent retaliated against her in violation of MAP-21. Complainant subsequently alleged that Respondent blacklisted her from employment at a separate company on January 24, 2014. On February 18, 2014, Complainant updated her complaint to include her allegation of blacklisting.

As these allegations were filed within 180 days of the adverse actions, they are considered timely filed.

The evidence indicates that Complainant received an adverse action on October 28, 2013, when she was terminated from employment with Respondent. While Complainant alleged that she received an additional adverse action in being blacklisted from employment at Westcast by Respondent on January 24, 2014, available evidence was unable to corroborate this allegation.

Complainant engaged in protected activity on or around September 1, 2013, when Respondent's counsel received by mail, a letter from the investigator of record in a related complaint also against Respondent under MAP-21. In this letter the investigator of record indicated that he would be "contacting you shortly to obtain additional information or to schedule interviews". As Complainant was one of only several employees with similar job duties to the original Complainant in this separate complaint also under MAP-21, Respondent then had cause to believe that Complainant "testified...assisted or participated or is about to assist or participate in such a proceeding...information related to an alleged violation of any notification or reporting requirement of this chapter". While Complainant alleged additional protected activity, the evidence collected was unable to substantiate these.

Respondent has admitted knowledge that it received a letter inviting interviews of employees for a related complaint under MAP-21 on or around September 1, 2013.

Respondent maintains that the Complainant was discharged after repeated counselling, due to issues with her interpersonal skills. Respondent also maintains that it had no contact with Westcast and did not attempt to blacklist Complainant from employment anywhere.

During the course of the investigation, evidence surfaced corroborating Respondent's claim that it had a legitimate non-discriminatory reason to terminate Complainant's employment on October 28, 2013, and that prior to her termination, Respondent followed its normal counseling procedures. As such, available evidence indicates that Complainant would have received this termination in the absence of any protected activity. Complainant was then given an opportunity, but was not able, to overcome the preponderance of the evidence supporting that Respondent would have taken the same adverse action in the absence of any protected activity. Consequently, this case is dismissed.

Respondent and Complainant have 30 days from the receipt of these Findings to file objections and to request a hearing before an Administrative Law Judge (ALJ). If no objections are filed, these Findings will become final and not subject to court review. Objections must be filed in writing with:

Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Department of Labor  
800 K Street NW, Suite 400  
North Washington, D.C. 20001-8002  
Telephone: (202) 693-7300, Fax: (202) 693-7365

With copies to:

Cary Schwimmer  
Law Offices of Cary Schwimmer  
The Colonnade  
1661 International Place Dr. STE 400  
Memphis, TN 38120

Nick A. Walters  
Regional Administrator  
U.S. Department of Labor – OSHA  
230 S. Dearborn St. Rm. 3244  
Chicago, IL 60604

Mary Ann Howe, CFE  
Assistant Regional Administrator  
Region V Whistleblower Protection Program  
U.S. Department of Labor – OSHA  
230 S. Dearborn Street, Room 3244  
Chicago, IL 60604

In addition, please be advised that the U.S. Department of Labor does not represent any party in the hearing; rather, each party presents his or her own case. The hearing is an adversarial proceeding before an Administrative Law Judge (ALJ) in which the parties are allowed an opportunity to present their evidence for the record. The ALJ who conducts the hearing will issue a decision based on the evidence and arguments, presented by the parties. Review of the ALJ's decision may be sought from the Administrative Review Board, to which the Secretary of Labor has delegated responsibility for issuing final agency decisions under the Moving Ahead for Progress in the 21st Century Act (MAP-21), 49 U.S.C. §30171. A copy of this letter has been sent to the Chief Administrative Law Judge along with a copy of your complaint. Until procedural regulations are published for the handling of retaliation complaints under the Moving Ahead for Progress in the 21st Century Act (MAP-21), 49 U.S.C. §30171, the Secretary will follow the procedures found in Title 29, code of Federal Regulations Part 1983, which may be obtained at [www.whistleblowers.gov](http://www.whistleblowers.gov).

Sincerely,



Tim Crouse  
Regional Supervisory Investigator

cc: Respondent  
Chief Administrative Law Judge, USDOL  
NHTSA