

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 02 March 2020

Case No.: 2019-CFP-00007
OSHA No.: 5-1260-18-010

In the Matter of:

DAVID BLUMFELT,
Complainant,

v.

PLS FINANCIAL SOLUTIONS OF ILLINOIS, INC.
Respondent.

ORDER APPROVING SETTLEMENT AGREEMENT

The above-captioned matter arises under the Consumer Financial Protection Act of 2010 (“CFPA” or “the Act”), as amended, 12 U.S.C. § 5567, and the implementing regulations at 29 C.F.R. Part 1985.

On October 24, 2017, David Blumfelt (“Complainant”) filed a complaint with the U.S. Department of Labor, Occupational Safety and Health Administration (“OSHA”) alleging, in part, that Respondent PLS Financial Solutions of Illinois, Inc. terminated his employment on September 27, 2017 in retaliation for filing a complaint with OSHA and reporting compliance issues. On May 8, 2019, the Secretary of Labor, acting through the OSHA Regional Administrator, dismissed the complaint, finding no reasonable cause to believe that Respondent violated the whistleblower protection provisions of the CFPA.

On May 28, 2019, Complainant filed a letter with the Office of Administrative Law Judges (“OALJ”), U.S. Department of Labor, objecting to the Secretary’s Findings. By Order issued July 2, 2019, I set the matter for a November 14, 2019 hearing in Chicago, Illinois, subsequently continued to April 14, 2020.

On January 21, 2020, Respondent’s counsel advised a member of my staff that the parties had reached a settlement and would be forwarding the documentation to the undersigned for approval upon completion. Accordingly, on January 22, 2020, I issued an Order cancelling the April 24, 2020 hearing and giving the parties 45 days to file the appropriate settlement documentation.

On February 27, 2020, Respondent's counsel filed a signed Settlement and General Release Agreement for my review and approval. 29 C.F.R. § 1985.111(d).¹

Having reviewed the settlement agreement and its provisions, which includes dismissal of the complaint with prejudice, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest. I also find that the settlement was not procured through duress. Accordingly, I approve the parties' Settlement Agreement and dismiss the complaint with prejudice.² To the extent not otherwise done so, the parties shall implement the terms of the approved settlement as specifically stated in the agreement.

ORDER

The settlement agreement is APPROVED and the Complaint is DISMISSED with prejudice.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

¹ In ¶4 of the agreement, the parties agree to "maintain the confidentiality of this Agreement." The parties are afforded the right to request that information be treated as confidential commercial information where, as here, they are required to submit information involuntarily. 29 C.F.R. § 1980.111(d)(1). The DOL is then required to take steps to preserve the confidentiality of that information, and must provide the parties with predisclosure notification if a FOIA request is received seeking release of that information. Accordingly, the Settlement Agreement in this matter will be placed in an envelope marked "PREDISCLOSURE NOTIFICATION MATERIALS." Consequently, before any information in this file is disclosed pursuant to a FOIA request, the DOL is required to notify the parties to permit them to file any objections to disclosure. *See* 29 C.F.R. § 70.26 (2001). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Settlement. I note that the Supreme Court recently issued a decision addressing the meaning of the word "confidential." *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019). Whether information is "confidential" under FOIA Exemption 4, 5 U.S.C. 552(b)(4) now potentially implicates two conditions, (1) whether the information is "customarily kept private, or at least closely held," by the submitter; and (2) whether the government provides "some assurance" that the information will not be publicly disclosed. *See Argus Leader*, 139 S. Ct. at 2363.

² This approval applies only to the CFPA complaint over which the Office of Administrative Law Judges has jurisdiction.