

U.S. Department of Labor

Office of Administrative Law Judges
11870 Merchants Walk - Suite 204
Newport News, VA 23606

(757) 591-5140
(757) 591-5150 (FAX)



Issue Date: 02 January 2014

Case No.: 2013-FRS-00062

In the Matter of:

DARRYL E. BROWN,

Complainant.

v.

CSX TRANSPORTATION,

Respondent.

**ORDER APPROVING SETTLEMENT
AND
DISMISSING THE COMPLAINT**

This case arises under the Federal Rail Safety Act, which provides whistleblower protections to railroad employees for engaging in certain protected activities. 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53. On December 19, 2013, the parties submitted by a copy of their signed Settlement Agreement, which resolves all issues raised in the Complaint, for my review and approval. The attached Settlement Agreement is incorporated herein by reference.

My review of the Settlement Agreement is limited to a determination of whether its terms are fair, adequate and reasonable. The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to the public interest. After careful consideration of the settlement agreement, I find that none of the terms or conditions are unacceptable. Moreover, I find the terms of the agreement to be fair and reasonable and adequately protect the Complainant. Furthermore, I believe it is in the public interest to approve the agreement as a basis for administrative disposition of this case and I therefore approve the Settlement Agreement.

I note that the Settlement Agreement incorporates certain confidentiality provisions binding upon the parties in a nondisclosure provision. *See generally Connecticut Light & Power Co. v. Secretary of the U.S. Department of Labor*, 85 F.3d 89 (2nd Cir. 1996). Records in whistleblower cases are agency records which the agency must make available for public inspection and copying under the Freedom of Information Act (FOIA), 5 U.S.C. §552. Any agency receiving a request for release of the agreement is directed to comply with Section 1 of Executive Order 12,600 (June 23, 1987) and 29 C.F.R. §70.26. Specifically, it is incumbent on

any agency receiving such a request to give the parties prompt written notice of the request, to give a reasonable time to object in writing, to consider any objections, and in the event of disclosure of the information over objections, to give the party objecting written notice complying with the obligations set forth in 29 C.F.R. §70.26(f).

ORDER

The Settlement Agreement is **APPROVED**, and it shall be designated as confidential subject to the procedures that may require disclosure under FOIA. The Complaint of Darryl E. Brown is **DISMISSED WITH PREJUDICE**.

KENNETH A. KRANTZ
Administrative Law Judge

KAK/mrc