



Issue Date: 14 March 2016

Case No.: **2013FRS00013**

In the Matter of:

KAREN COLLERAN,
Complainant,

v.

SOO LINE RAILROAD CO., d/b/a/ CANADIAN PACIFIC,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This case arose under the Federal Rail Safety Act (FRSA), as amended,¹ and its implementing regulations,² which provide whistleblower protections to employees of railroad carriers for engaging in certain protected activities. On March 2, 2016, the parties submitted a “Settlement Agreement and Release” and a signed “Stipulation for Dismissal with Prejudice” which resolve all issues raised in the complaint for my review and approval. The Settlement Agreement and Release has been signed by both parties, and the Stipulation has been signed by counsel for both parties.

My review of the Settlement Agreement is limited to a determination of whether its terms are fair, adequate and reasonable under the FRSA.³ The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to public interest.

Because the Office of Administrative Law Judges is a government agency, and this is a public proceeding, the parties’ submissions in this case, including the Settlement Agreement and Release, become a part of the record in this case, and are subject to requests for disclosure under the Freedom of Information Act (“FOIA”).⁴ FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA.⁵ The Settlement Agreement and Release provides that both parties will keep the financial terms of the Settlement Agreement confidential, with certain specified exceptions. The parties have requested that it be placed in an envelope and not disclosed to non-parties. I find that the Settlement Agreement and Release is

¹ 49 U.S.C. § 20109 (2014).

² 29 C.F.R. Part 1982, 80 Fed. Reg. 69115 *et seq.* (Nov. 9, 2015).

³ See *Poulos v. Ambassador Fuel Oil Co.*, No. 91-ERA-25, slip op. at 2 (Sec’y of Labor, Nov. 4, 1991).

⁴ 5 U.S.C. § 552 (2014).

⁵ See, e.g., *Fish v. H and R Transfer*, ARB No. 01-071, ALJ Case No. 2000-STA-56, slip op. at 2 (ARB April 30, 2003).

exempt from disclosure under FOIA pursuant to FOIA Exemptions 4 and 6.⁶ Accordingly, to protect the parties from improper disclosure of this confidential information, to the furthest extent permitted by law, the Settlement Agreement will be sealed in a separate envelope and identified as being “CONFIDENTIAL COMMERCIAL AND PERSONAL PRIVATE INFORMATION” subject to 29 C.F.R. § 70.26(b) (2015), which requires written notice to the parties in the event of a FOIA request.

After careful consideration of the Settlement Agreement and Release, I find that the terms and conditions are acceptable. Moreover, I find the terms of the agreement to be fair, adequate, and reasonable under the FRSA, and that the terms adequately protect the Complainant. Furthermore, I believe it is in the public interest to approve the Settlement Agreement and Release as a basis for administrative disposition of this case, and I therefore approve the Settlement Agreement and Release.

IT IS THEREFORE ORDERED that the Settlement Agreement and Release submitted by the parties is **APPROVED**. The complaint is **DISMISSED WITH PREJUDICE**, each party to bear its own costs, disbursements, and attorneys’ fees. In accordance with the regulations, the settlement constitutes the final order of the Secretary of Labor⁷ and may be enforced under 29 C.F.R. § 1982.113.⁸

IT IS FURTHER ORDERED that the Settlement Agreement is to be kept under seal and designated as “CONFIDENTIAL COMMERCIAL AND PERSONAL PRIVATE INFORMATION” under 29 C.F.R. § 70.26, and shall be afforded the protections thereunder.

Alice M. Craft
Administrative Law Judge

⁶ 5 U.S.C. § 552(b)(4) & (b)(6).

⁷ 29 C.F.R. § 1982.111(e), 80 Fed. Reg. 69138 (Nov. 9, 2015).

⁸ 80 Fed. Reg. 69138 (Nov. 9, 2015).