

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 02 July 2014

CASE NO.: 2008-SOX-00049

In the Matter of:

ANDREA BROWN,
Complainant,

vs.

LOCKHEED MARTIN CORP.,
Respondent.

DECISION AND ORDER DISMISSING CASE

This matter arises out of a retaliation complaint filed by Andrea Brown (“Complainant”) who alleges that her former employer, Lockheed Martin Corp., (“Respondent”), violated the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A, *et seq.*, (“Sarbanes-Oxley” or “SOX”), by constructively terminating her after she made protected complaints. Judge Russell Pulver, who heard the case, issued a decision on January 15, 2010, finding that her constructive discharge was causally related to her protected activity and recommended that she be reinstated and awarded damages. Respondent appealed the decision to the Administrative Review Board (“ARB”), which affirmed Judge Pulver’s decision. *Brown v. Lockheed Martin Corp.*, ARB No. 10-050, ALJ No. 2008-SOX-00049 (Feb. 28, 2011). Respondent appealed the ARB’s decision to the Tenth Circuit which affirmed the ARB’s decision but remanded the case with instructions to quantify the awards of back pay, medical expenses and attorney fees and to re-examine the reinstatement award since the Complainant’s position no longer exists. *Lockheed Martin v. ARB, DoL*, No. 11-9524, slip op. at 33 (10th Cir. June 4, 2013). The ARB remanded the case back to Judge Pulver with an order to comply with the Tenth Circuit’s remand instructions. *Brown v. Lockheed Martin Corp.*, ARB No. 14-008 (Dec. 19, 2013).

Judge Pulver retired on October 1, 2013, so this case was assigned to me after the case file was remanded. After conferring with counsel for the parties, I issued an Order on April 17, 2014, setting this matter for further hearing on August 13, 2014. I vacated the hearing on June 2, 2014, after being notified by Respondent’s counsel that the parties had settled this case. On June 30, 2014, I received a “Stipulated Motion for Dismissal Based on the Parties’ Confidential Settlement” signed by all parties.

The Stipulated Motion for Dismissal is made pursuant to the terms of a Confidential Settlement Agreement (“Settlement Agreement”) entered into between the Complainant and Respondent which resolved this case. A copy of the Confidential Settlement Agreement was submitted with the Stipulated Motion for Dismissal.

In the Settlement Agreement, Respondent denies any liability under SOX, but under the terms of the settlement, the Complainant releases the Respondent from any claims that are based on any acts or omissions to the date of the Settlement Agreement in exchange for the compensation the Claimant is receiving under the Settlement Agreement.

The Settlement Agreement also provides that the Complainant agrees that the terms of the Settlement Agreement are to remain confidential. I note, however, that the parties did not state that the Settlement Agreement comprises and includes confidential information which may be exempt from disclosure under the Freedom of Information Act (“FOIA”). The Office of Administrative Law Judges must comply with requests for information under FOIA and will be required to disclose this Settlement Agreement if the OALJ receives a FOIA request that requires its disclosure. Thus, this Settlement Agreement will not be accorded any special treatment by the OALJ in the event of a FOIA request.

After carefully considering the terms of the Settlement Agreement, I find that the terms and conditions that relate to this proceeding before the OALJ appear to be fair, adequate, and reasonable. I further find that it is not contrary to the public interest. Accordingly, the Confidential Settlement Agreement, which is incorporated by reference into this Order, is APPROVED.

It is further ORDERED that this matter be DISMISSED WITH PREJUDICE.

JENNIFER GEE
Administrative Law Judge