



Issue Date: 17 October 2008

CASE NO: 2008-SOX-50

In the Matter of:

CURTIS J. HELM
Complainant

v.

GENESIS 10
Respondent

**RECOMMENDED ORDER APPROVING SETTLEMENT AND
DISMISSING COMPLAINT WITH PREJUDICE**

This proceeding arises from a complaint filed by Curtis J. Helm against Genesis 10 alleging violations of the employee protection provisions in Section 806 of the Sarbanes-Oxley Act of 2002, codified in 18 U.S.C. § 1514A (“the Act”).

On October 16, 2008, the parties submitted a fully executed Settlement Agreement and General Release. The Settlement Agreement resolves the action and dispute under the Act. However, I note that the Settlement Agreement contains provisions that relate to present and future actions by the Complainant under other statutes; I have no authority to approve such provisions and this Order makes no determination regarding the propriety of those provisions.

I have reviewed the parties’ Settlement Agreement with regard to the complaint under the Act, and I make the following findings:

1. The Settlement Agreement appears to be fair and reasonable on its face and to effectuate the purposes and policies of the Act.
2. By their agreement, the parties are deemed to have waived any further proceedings before the U.S. Department of Labor for matters that are the subject of the Settlement Agreement.
3. This Order shall have the same force and effect as a Decision and Order issued after a full hearing on the merits.

29 C.F.R. § 18.9; 29 C.F.R. § 1980.

4. Additionally, the Agreement provides that the parties shall keep the terms of the settlement confidential, with certain specified exceptions. I emphasize that “[t]he parties’ submissions, including the agreement, become a part of the record of the case and are subject to the Freedom of Information Act (“FOIA”), 5 U.S.C.A. § 552. FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.” *Coffman v. Alyeska Pipeline Serv. Co. and Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ nos. 96-TSC-5, 6, slip op. at 2 (ARB June 24, 1996). Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of such request, and for protecting the interests of submitters of confidential commercial information. See 29 C.F.R. Part 70.

Accordingly,

IT IS HEREBY ORDERED that the Settlement Agreement is APPROVED.

IT IS FURTHER ORDERED that the complaint under the Sarbanes-Oxley Act is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the hearing in this matter scheduled for December 9, 2008, in Milwaukee, Wisconsin, is hereby CANCELLED.

A

DANIEL L. LELAND
Administrative Law Judge