



Issue Date: 07 July 2009

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In the Matter of:

Joseph Walters,
Complainant,

CASE NO.: 2008 SOX 70

v.

Deutsche Bank AG, et.al.,
Respondents.
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Order Approving Settlement
And Dismissing

This proceeding arises pursuant to a complaint filed against Deutsche Bank AG and others by Joseph Walters, former European Head of Insurance Asset Management Relationships for Deutsche Bank AG's Insurance Asset Management Division, a business unit that operates within Deutsche Bank Asset Management Schweiz, a Swiss company. The complaint alleged violations by Respondents of the employee protection provisions of the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A. (hereinafter Sarbanes-Oxley). OSHA dismissed the complaint on the ground that it involved the extraterritorial application of Sarbanes-Oxley; and Complainant requested a hearing.

Shortly, thereafter, Deutsche Bank filed a Motion for Summary Decision dismissing the complaint on grounds that it involved a non-publicly traded subsidiary of a publicly traded issuer and that extraterritorial jurisdiction was lacking. Respondents' motion was considered, discussed, and denied by Summary Decision issued on March 23, 2009. On June 26, 2009, the parties filed a Joint Motion For Approval Of Settlement Agreement And Dismissal With Prejudice. Accordingly, this is an adjudicatory settlement within the meaning of 29 C.F.R. § 1980.111(d)(2).

I have carefully reviewed the terms of the agreement. I note that it encompasses the settlement of matters arising under both Sarbanes-Oxley and other statutes, foreign and domestic. Paragraph 13 of the Agreement further provides that the settlement is "governed by the laws of the State of New York. *See* Settlement and General Release Agreement ¶ 13. Consistent with the Secretary's decision in Phillips v. Citizens Assoc. for Sound Energy, 91 ERA 25 (Nov. 4, 1991), Paragraph 13 must be limited to the claims other than the Sarbanes-Oxley claims the Agreement settles. It should not, therefore, be construed as a provision limiting the authority of the Secretary or the United States district court to take such action with respect to this matter as they may

deem appropriate under Sarbanes-Oxley or the regulations promulgated and published by the Department of Labor to implement the Act. *See also*, Milewski v. Kansas Gas and Electric Co., Case No. 85-ERA-0021, (Secretary's Order Approving Settlement Agreement and Dismissing Complaint, June 23, 1990), slip op. at 2. In addition, the confidentiality restrictions imposed upon Complainant pursuant to Paragraph 9(b) of the Agreement must be construed in accordance with the decisions in Brown v. Holmes & Narver, Inc., 1990-ERA-26 (Sec'y May 11, 1994) and Wampler v. Pullman-Higgins Co., 1984-ERA-13 (Sec'y Feb. 14, 1994).

The parties further request confidential treatment of the Agreement. The terms and conditions under which the Agreement is accorded such treatment by the Department of Labor and the laws and regulations that apply if a request for disclosure of the Settlement Agreement were filed in the future must be governed by applicable federal laws and regulations. The rules according confidential treatment to such information are set forth at 29 C.F.R. § 70.26, and the disclosure or non-disclosure of such information is governed by the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (b)(6) and decisions of the federal courts interpreting those provisions.

As so construed, I find the terms of the Settlement Agreement to be fair, adequate, and reasonable, and, therefore;

ORDER

IT IS ORDERED that the Settlement and General Release Agreement be, and it hereby is, approved, and;

IT IS FURTHER ORDERED that the complaint filed in this matter, be, and it hereby is, dismissed with prejudice, and;

IT IS FURTHER ORDERED that the case file shall note that the parties consider the Settlement and General Release Agreement confidential and that it is subject to the applicability of the pre-disclosure notification requirement under 29 C.F.R. § 70.26 prior to release under the Freedom of Information Act.

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Stuart A. Levin
Administrative Law Judge