



Issue Date: 02 May 2013

Case Nos.: 2009-SOX-00043
2011-SOX-00031
2013-SOX-00014
2013-SOX-00015

In the Matter of:

LUIS FERNANDEZ,
Complainant,

v.

NAVISTAR INTERNATIONAL CORPORATION, *et al.*,
Respondents.

**ORDER APPROVING SETTLEMENT AGREEMENT AND DISMISSING SOX
COMPLAINTS WITH PREJUDICE**

The above-captioned cases arise under the employee protection provisions of § 806 of the Corporate and Criminal Fraud Accountability Act of 2002 (CCFA), Title VIII of the Sarbanes-Oxley Act of 2002 (“SOX”), 18 U.S.C. § 1514A, and are currently pending before the undersigned.

On April 25, 2013, the parties submitted the following: 1) a Joint Motion to Approve Settlement Agreement, Dismiss Cases with Prejudice, and to Restrict Access to Record of Settlement Agreement Filed Instantly; and 2) a Confidential Settlement Agreement and General Release of All Claims for approval, hereinafter collectively referred to as the “Settlement Agreement.” To the extent that the Settlement Agreement contains provisions that may relate to actions by Complainant or Respondents under any other statutes than SOX, this Order makes no determination regarding the propriety of such provisions. My authority over settlement agreements is limited to the statutes that are within the jurisdiction of the Office of Administrative Law Judges as set forth in the applicable statute. Accordingly, I approve only the terms of the Settlement Agreement pertaining to Complainant’s SOX cases.

Having carefully reviewed the Confidential Settlement Agreement under SOX, I make the following findings:

1. The Settlement Agreement, on its face, appears to be fair and reasonable and to effectuate the purposes and policies of SOX;
2. The Complainant is deemed to have waived any further proceedings before the U.S. Department of Labor regarding the matters which are the subject of the Settlement Agreement;

3. This Order shall have the same force and effect as one made after a full hearing on the merits; and,

4. With regard to confidentiality of the Settlement Agreement, the parties are advised that notwithstanding the confidential nature of the Settlement Agreement, all of their filings, including the Settlement Agreement, are part of the record in this case and may be subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C.A. § 552, *et seq.* The Administrative Review Board has noted that:

If an exemption is applicable to the record in this case or any specific documents in it, the Department of Labor would determine at the time a request is made whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.

Seater v. S. Cal. Edison Co., USDOL/OALJ Reporter (PDF), ARB No. 97-072, ALJ No. 1995-ERA-00013 at 2 (ARB March 27, 1997). Should disclosure be requested, the parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

Based on the foregoing and in accordance with the Settlement Agreement,

ORDER

IT IS HEREBY ORDERED that the Settlement Agreement is **APPROVED**. **IT IS FURTHER ORDERED** that the above-captioned SOX complaints are **DISMISSED WITH PREJUDICE**.

LARRY S. MERCK
Administrative Law Judge