



Issue Date: 23 March 2010

OALJ CASE NO.: 2009-SOX-00011

*In the Matter of:*

**MATTHEW GLOSS,**  
Complainant,

v.

**MARVELL SEMICONDUCTOR, INC. and  
MARVELL TECHNOLOGY GROUP, LTD.,**  
Respondents.

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT AND  
DISMISSING SOX COMPLAINT WITH PREJUDICE**

This case was assigned to me on November 21, 2008. It was filed under the Corporate and Criminal Fraud and Accountability Act, Title VIII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A, *et seq.* and the implementing regulations at 29 C.F.R. § 1980 (SOX), by Complainant against Respondents.

On March 16, 2010, the parties filed a copy of a fully executed Settlement Agreement and Mutual Release (“Agreement”) which fully resolves OALJ Case No. 2009-SOX-00011. An accompanying joint letter motion (the “March 16, 2010 Joint Letter Motion” asks for dismissal of this case. The Agreement is fully executed by both parties and their counsel effective on March 12, 2010.

In addition, the parties request confidential treatment of the Confidential Materials defined collectively as the Agreement, the March 11, 2010 Allocation Letter and the March 16, 2010 Joint Letter Motion. They state that “[t]hese Confidential Materials contain commercially and financially sensitive information that is privileged and confidential for purposes of the Freedom of Information Act (FOIA)” citing 5 U.S.C. §552(b) and 29 C.F.R. § 70.26(b).

Because the OALJ is a government agency, and this case is a public proceeding, the parties’ submissions in this case generally would become a part of the record in this case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1988). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under FOIA. *Fish v. H & R Transfer*, ARB No. 01-071; ALJ Case No. 00-STA-56 (ARB April 30, 2003).

As stated above, the parties have indicated that the Confidential Materials, including the Agreement, comprise and include confidential commercial information which they believe are

exempt from disclosure under FOIA. The U.S. Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of such requests, and for protecting the interests of submitters of confidential commercial information. See 29 C.F.R. § 70.26. The Confidential Materials in this case will be placed in a separate envelope and file in this case will be identified as being confidential commercial information pursuant to the parties' request.

I find that the Agreement is fair and reasonable on its face and to effectuate the purposes and policies of SOX. The parties are both represented by counsel and have been advised concerning the Agreement by the same. I further find that 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 Agreement. Finally, I further find that this Order shall have the same force and effect as one made after a full hearing on the merits.

Accordingly, **IT IS HEREBY ORDERED** that the March 16, 2010 Joint Letter Motion is **GRANTED**, the Settlement Agreement and Mutual Release is **APPROVED**, and the SOX complaint which composes OALJ Case No. 2009-SOX-00011 be **DISMISSED** with prejudice.

A

GERALD M. ETCHINGHAM  
Administrative Law Judge

*San Francisco, California*