



Issue Date: 18 June 2009

CASE NO.: 2009 SOX 23

In the Matter of
BARRY KOKLEFSKY
Complainant

v.

MADISON NATIONAL LIFE INSURANCE COMPANY, INC.
Respondent

Appearances: Mr. Randall B. Gold, Attorney
For the Complainant

Mr. James J. Chiolino, Attorney
Ms. Judy Williams-Killacky, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

**FINAL ORDER APPROVING SETTLEMENT --
DISMISSAL OF COMPLAINT WITH PREJUDICE**

This matter arises under the employee protection provision of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, (Public Law 107-204), 18 U.S.C. § 1514A (“Act” or “SOX”) as implemented by 29 C.F.R. Part 1980. This statutory provision, in part, prohibits an employer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 and companies required to file reports under section 15(d) of the Securities Exchange Act of 1934 from discharging, or otherwise discriminating against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee provided to the employer or Federal Government information relating to alleged violations of 18 U.S.C. §§ 1341 (mail fraud and swindle), 1343 (fraud by wire, radio, or television), 1344 (bank fraud), 1348 (security fraud), any rule or regulation of the Securities and Exchange Commission (“SEC”), or any provision of federal law relating to fraud against shareholders.

Pursuant to Notice of Hearing, dated April 27, 2009, I set a hearing date of September 1, 2009 for this case in Madison, Wisconsin.

On June 16, 2009, I received a settlement agreement from the parties which fully settles and resolves their dispute. Both parties were ably represented by counsel. The Complainant represents his understanding of the agreement's provisions and voluntarily accepts the settlement. Having reviewed the agreement, I find the provisions are fair, adequate and not contrary to public interest.¹ Further, the settlement supports a finding that the complaint be dismissed with prejudice. Accordingly, approval of the agreement is appropriate. Upon my approval, the parties shall implement their settlement as specifically stated in the agreement.

The parties have agreed to keep the specific terms of the agreement confidential, subject to applicable laws, and requested that the U.S. Department of Labor maintain the agreement and any other pleadings and related documents under seal pursuant to 29 C.F.R. § 18.56. Notwithstanding the parties' agreement, their submissions, including the settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 (a).² If a FOIA request is made for the settlement agreement and/or the case record, the U.S. Department of Labor will provide predisclosure notification to the parties and have to decide whether to exercise its discretion to claim any applicable exemption.³ Accordingly to effectuate the requested confidentiality, I have placed the settlement agreement and the case record in a sealed envelope, marked "FOIA PREDISCLOSURE NOTIFICATION MATERIALS."

ORDER

1. The parties' Settlement Agreement is **APPROVED**.
2. The SOX complaint of Mr. BARRY KOKLEFSKY against MADISON NATIONAL LIFE INSURANCE COMPANY, INC. is **DISMISSED WITH PREJUDICE**.

SO ORDERED:

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RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: June 18, 2009
Washington, D.C.

¹See *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, 89-ERA-9, 89-ERA-10 (Sec'y Mar. 23, 1989) and *Heffley v. NGK Metals Inc.*, 89-SDW-2 (Sec'y Mar. 6, 1990).

²The parties assert the applicable FOIA exemptions in this case are 5 U.S.C. § 552 (b)(4), (6), and (7)(C).

³See *Debose v. Carolina Power and Light Co.*, 92-ERA-14 (Sec'y Feb. 7, 1994) and *Darr v. Precise Hard Chrome*, 95-CAA-6 (Sec'y May 9, 1995).