



**Issue Date: 30 September 2010**

Case No.: 2010-STA-00050

In the Matter of:

RALPH PUCCI  
Complainant,  
v.

FALCON EXPRESS, INC.,  
Respondent.

**DECISION AND ORDER APPROVING  
SETTLEMENT AGREEMENT**

This proceeding arises under the employee protection provision of Section 405 of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105 *et seq.*, and the regulations promulgated thereunder at 29 C.F.R. Part 1978.<sup>1</sup>

On September 22, 2010, the parties notified this Office that they wished to cancel the hearing scheduled in this matter because they had reached a settlement agreement. On September 28, 2010, the parties filed a *Settlement Agreement and General Release*.

The STAA and implementing regulations provide that a proceeding may be terminated on the basis of a settlement, provided that either the Secretary or the Administrative Law Judge approves the settlement. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). Under the STAA, a settlement agreement cannot become effective until its terms have been reviewed and determined to be a fair, adequate, and reasonable settlement of the STAA complaint, and in the public interest. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-36 (ARB Dec. 16, 2009); *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec’y Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board United States Department of Labor as the case may be.” 29 C.F.R. § 1978.111(d)(2). Any settlement approved by the Assistant Secretary, the ALJ, or the ARB constitutes the final order of the Secretary and may be enforced pursuant to § 1978.113. 29 C.F.R. § 1978.111(e). I have carefully reviewed the

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<sup>1</sup> As of August 31, 2010, all Administrative Law Judge determinations are now characterized as “Final” rather than “Recommended.” See “Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provision of the Surface Transportation Assistance Act of 1982,” (Interim Final Rule), 75 Fed. Reg. 53544, 53550 (August 31, 2010).

parties' settlement agreement, and I find that it constitutes a fair, adequate, and reasonable settlement of the complaint, and is in the public interest.

In addition, I have reviewed the parties' request that the entire settlement agreement be treated as confidential financial information. The parties' request to treat the entire settlement agreement as confidential financial information pursuant to 29 C.F.R. § 70.26 is granted and the contents of the settlement will be disclosed under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, only in accordance with the regulations set forth at 29 C.F.R. § 70.26.

### **ORDER**

1. **IT IS HEREBY ORDERED** that the Settlement Agreement filed on September 28, 2010, is **APPROVED**, and;
2. **IT IS FURTHER ORDERED** that the complaint filed in this matter is **DISMISSED WITH PREJUDICE**, and;
3. **IT IS FURTHER ORDERED** that the Settlement Agreement shall be treated as confidential financial information pursuant to 29 C.F.R. § 70.26.

**A**

CHRISTINE L. KIRBY  
Administrative Law Judge

Washington, D.C.