



Issue Date: 06 August 2013

CASE NO.: 2013-STA-41

IN THE MATTER OF

MICHAEL A. GLOVER

Complainant

v.

UNITED SITE SERVICES OF NEVADA, INC.

Respondent

**ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING CASE**

This case arises under Section 405, the employee protection provision of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. §31105, (herein STAA) and the implementing regulations at 29 C.F.R. Part 1978. The parties have filed a request for approval of their settlement agreement and dismissal of the complaint with prejudice.

Pursuant to Section 31105(b)(2)(C) of the Act, "[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the Complainant, and the person alleged to have committed the violation" under regulations implementing the STAA. The parties may settle a case at any time after the filing of objections to the Assistant Secretary's findings "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board. . . or the ALJ." 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 fair, adequate, and reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, Case No. 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 as the case may be." *Id.*

I have carefully reviewed the parties' settlement agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. I note that the settlement agreement may encompass the settlement of matters under laws other than the STAA. My authority over settlement agreements is limited to the statutes that are within the jurisdiction of the Office of Administrative Law Judges as defined by the applicable statute. Accordingly, I approve only the terms of the agreement pertaining to Complainant's STAA Case. *See Fish v. H and R Transfer*, ARB No. 01-071, ALJ NO. 2000-STA-56 (ARB Apr. 30, 2003).

Finally, the Agreement provides that the parties shall keep the terms of the settlement confidential.¹ I note that the parties' submissions, including the Agreement, become part of the record of the case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C.A §552 (West 2007). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.² Department of Labor regulations provide specific procedures for responding to FOIA requests and for appeals by requestors from denials of such requests.³

¹ Confidentiality, Paragraph 9.

² *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 1996-TSC-005-006.. slip op. @ 2 (ARB June 24, 1996).

³ Pursuant to 29 C.F.R. §70.26(b), submitters may designate specific information as confidential commercial information to be handled as provided in the regulations. When FOIA requests are received for such information, the Department of Labor will notify the submitter promptly, 29 C.F.R. §70.26(c); the submitter will be given a reasonable amount of time to state its objections to disclosure, 29 C.F.R. §70.26(e); and the submitter will be notified if a decision is made to disclose the information, 29 C.F.R. §70.26(f). If the information is withheld and a suit is filed by the requestor to compel disclosure, the submitter will be notified, 29 C.F.R. §70.26(h)." *Coffman*, slip op at 2, n2.

Formerly, pursuant to 29 C.F.R. §1978.109(c), the Administrative Review Board was required to issue the final order of dismissal of a STAA complaint resolved by settlement. See *Howick v. Experience Hendrix, LLC*, ARB No. 02-049, ALJ No. 2000-STA-32 (ARB Sept. 26, 2002). However, the August 31, 2010 amendments to the STAA now provide that "[a]ny settlement approved by the Assistant Secretary, the ALJ, or the ARB will constitute the final order of the Secretary and may be enforced pursuant to §1978.113." 29 C.F.R. §1978.111(e).

Accordingly, **IT IS HEREBY ORDERED** that the settlement agreement as limited be approved, and the instant complaint be **DISMISSED** with prejudice.

The hearing scheduled on August 20, 2013 is cancelled.

ORDERED this 6th day of August, 2013, at Covington, Louisiana.

LEE J. ROMERO, JR.
Administrative Law Judge