U.S. Department of Labor

Office of Administrative Law Judges
36 E. 7th St., Suite 2525
Cincinnati, Ohio 45202

(513) 684-3252
(513) 684-6108 (FAX)

Issue Date: 28 November 2014

Case No. 2013-STA-00045

In the Matter of
DANIEL SALATA,
Complainant,

v.

R & L CARRIERS SHARED SERVICES, LLC
Respondent.

APPEARANCES:

Vicki Messer-Salata
New Springfield, Ohio
For the Complainant

Matthew D. Ridings, *Esq*.
Thompson Hine, LLP
Cleveland, Ohio
For the Respondent

BEFORE: JOHN P. SELLERS, III
Administrative Law Judge

DECISION AND ORDER APPROVING SETTLEMENT \ AND DISMISSING THE COMPLAINT

This proceeding arises under Section 405 of the employee-protection provisions of the Surface Transportation Assistance Act of 1982 ("STAA"), 49 U.S.C. § 31101 *et seq.* and the implementing regulations published at 29 C.F.R. Part 1978. Pursuant to a Notice of Hearing, issued June 4, 2014, this matter was initially set for hearing on October 14, 2014, in Canfield, Ohio. In an Order Cancelling Hearing issued on September 30, 2014, the hearing was cancelled after the parties advised that they had reached settlement.

On November 25, 2014, counsel for the Respondent submitted before the undersigned a Joint Motion to Approve Settlement. Accompanying the motion was a document entitled *Settlement Agreement and Release of Claims*, which is incorporated herein and made part of the Decision and Order Approving Settlement. The document was signed by the Complainant, Mr. Daniel Salata, and stated that R&L Carriers Shared Services, LLC ("R&L") was released from

liability under any cause of action related to his termination, specifically including this STAA claim.

Pursuant to § 31105(b)(2)(C) of the STAA, "[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.*, 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.*

The Board requires that all parties requesting settlement approval provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim, or certify that the parties have not entered into other such settlement agreements. *See Biddy v. Alyeska Pipeline Serv. Co*., ARB Nos. 96-109, 97-015, ALJ No. 95-TSC-7, slip op. at 3 (ARB Dec. 3, 1996). Here, the parties have properly submitted as part of the settlement agreement a release of claims, specifically releasing RWI from liability under the STAA claim, as well as a settlement agreement and general release of claims, the terms of which preclude any and all claims, charges, complaints, and grievances, etc., regarding all claims which were actually asserted, or which could have been asserted, under federal, state, or local law, regulation, ordinance or common law that in any way relate to employment, discrimination or harassment in employment, termination of employment, or retaliation with respect to employment, with the exception of a named case currently pending in the Court of Common Pleas of Columbiana County, Ohio, which is captioned and specifically identified by docket number in the Settlement Agreement.

In it noted that the agreement encompasses the settlement of matters under laws other than the STAA. Authority over settlement agreements is limited to such statutes as are within the forum's subject-matter jurisdiction and defined by the applicable statute. Therefore, I may consider approval only of the terms of the agreement pertaining to Complainant's STAA claim. *See Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00- STA-56 (ARB Apr. 30, 2003).

Section 8 of the Settlement Agreement and Release of Claims provides that the parties shall keep the terms of the settlement agreement confidential, with certain specified exceptions. However, I emphasize the following caveat: "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. § 552 (1988). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act." *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 96-TSC-5, 6, slip op. at 2 (ARB June 24, 1996). 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. Part 70.[1]

I also note that the confidentiality agreement expressly states that the parties are excepted from the confidentiality agreement where such disclosure is required by process of law or pursuant to legal process. The confidentiality agreement therefore does not violate public policy. Furthermore, the confidentially agreement provides that it will not apply if necessary to the action presently pending in the Court of Common Pleas of Columbiana County, Ohio, and which is specifically captioned and identified by docket number in the Settlement Agreement.

I have carefully reviewed the parties' settlement document and have determined that it constitutes a fair, adequate, and reasonable settlement of the complaint and is in the public interest. I note in this regard that Mr. Salata is not represented by an attorney but was represented by his wife in this matter. However, the settlement appears on its face to be fair, adequate and reasonable.

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 is **APPROVED** and the complaint which gave rise to this litigation is **DISMISSED** with prejudice.

SO ORDERED.

Digitally signed by John P. Sellers III
DN: CN=John P. Sellers III,
OU=Administrative Law Judge, O=Office
of Administrative Law Judges,
L=Cincinnati, S=OH, C=US
Location: Cincinnati OH

JOHN P. SELLERS, III
Administrative Law Judge

[1] "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 requester to compel disclosure, the submitter will be notified, 29 C.F.R. § 70.26(h)." *Coffman*, slip op. at 2, n.2.