



Issue Date: 06 March 2013

Case No.: 2013-STA-00006
In the Matter of:

JAMES SPENCER,
Complainant,

v.

MTM TRANSPORTATION, INC.,
LARRY WHITE, AND JACK CASEY,

Respondents.

**DECISION AND ORDER APPROVING
SETTLEMENT AND DISMISSING CASE**

This proceeding involves a complaint under the “Whistleblower” employee protection provisions of Section 405 of the Surface Transportation Assistance Act (“STAA” or “Act”) of 1982, as amended and re-codified, 49 U.S.C. § 31105, and implementing regulations found at 29 C.F.R. Part 1978. Section 405 of the Act provides protection from discrimination to employees who report violations of commercial motor vehicle safety rules or who refuse to operate a vehicle when the operation would be a violation of these rules.

The Act and implementing regulations provide that a proceeding under the Act may be ended prior to entry of a final order by a settlement agreement between the parties. 49 U.S.C. § 31105 (b)(2)(C); 29 C.F.R. §1978.111(d)(2). The Administrative Law Judge’s role in reviewing the parties’ settlement agreement is limited to ascertaining whether the terms of the agreement fairly, adequately and reasonable settle the Complainant’s allegations that the Respondent violated the Act. Ass’t Sec’y & Zurenda v. Corporate Express Delivery Systems, Inc., ARB No. 00-04 1, OALJ No. 1999-STA-30 (ARB March 31, 2000) (Zurenda); Champlin v. Florilli Corp., OALJ No. 199 1- STA-7 (Sec’y May 20, 1992).

On February 20, 2013 Complainant’s counsel submitted

**COMPLAINANT’S UNOPPOSED MOTION
TO APPROVE SETTLEMENT AND TO DISMISS WITH PREJUDICE**

Complainant moves the Court to approve the settlement set forth in the attached original settlement agreement. The undersigned represents that the settlement is fair, adequate and reasonable. Complainant moves the Court to dismiss this proceeding with prejudice. The undersigned represents that the Respondents do not oppose this motion.

Pursuant to the requirements of the Act and the implementing regulations, I have carefully reviewed the terms of the parties' Settlement Agreement, and I have determined that it constitutes a fair, adequate and reasonable settlement of the complaint. The signed agreement is made a part of the formal file.

ACCORDINGLY, it is hereby **ORDERED** that:

1. The "Settlement Agreement and Release of All Claims" is **APPROVED** and
2. The appeal of James Spencer is **DISMISSED** with prejudice.

RICHARD K. MALAMPHY
Administrative Law Judge

RKM/mrc
Newport News, VA