



Issue Date: 05 December 2017

Case No.: 2013-STA-00071

*In the Matter of:*

JOE TOCCI,  
*Complainant,*

v.

MIKY TRANSPORT,  
*Respondent.*

**DECISION AND ORDER ON REMAND**  
**APPROVING SETTLEMENT AGREEMENT**  
**AND DISMISSING CASE**

The matter arises under the whistleblower protection provisions of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, and the corresponding regulations found at 29 C.F.R. Part 1978.

By *Decision and Order of Remand* dated May 17, 2017, the Administrative Review Board (“ARB”) vacated the January 14, 2015 *Recommended Decision and Order* denying the complaint issued by Administrative Law Judge Linda S. Chapman. The ARB remanded the case back to the Office of Administrative Law Judges (“OALJ”) for reconsideration consistent with its opinion. The record was received in this office on May 19, 2017.

After the case was received, the parties jointly sought mediation through OALJ’s Court-sponsored mediation program. I issued an *Order Appointing Mediator* on July 14, 2017, and refrained from scheduling a hearing on remand pending conclusion of the mediation.<sup>1</sup> On September 20, 2017, I issued a *Supplemental Order Concluding Mediation* noting that the parties had reached a settlement and directing the parties to file appropriate documentation within fourteen days. On October 11, 2017, Respondent filed an *Unopposed Motion for 21-Day Extension of Time to Submit a Settlement Agreement*, which I orally granted. On December 4, 2017, Complainant filed an *Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice and Adjudicatory Settlement Agreement Pursuant to 29 C.F.R. § 1978.111(d)(2)* (“Settlement Agreement”), which is signed by both parties.

---

<sup>1</sup> As Judge Chapman had since retired from federal service, I assigned the case to me in my capacity as Chief Administrative Law Judge. 29 C.F.R. §18.12.

Proceedings under the STAA may be terminated on the basis of an adjudicatory settlement agreement if approved by the appropriate tribunal. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). The STAA's implementing 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). If the parties reach a settlement after commencement of proceedings before OALJ, the settlement agreement does not become effective until the administrative law judge has reviewed the terms of the agreement and determined them to be fair, adequate and reasonable, and in the public interest. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-036 (ARB Dec. 16, 2009). Any settlement approved by the Assistant Secretary, the ALJ, or the ARB constitutes the final order of the Secretary and may be subject to judicial enforcement under § 1978.113. 29 C.F.R. § 1978.111(e).

Having reviewed the Settlement Agreement and its provisions, which includes dismissal of the underlying complaint with prejudice, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest. I also find that the Settlement Agreement was not procured through duress. Accordingly, I approve the parties' Settlement Agreement and dismiss this case with prejudice. To the extent that they have not already done so, the parties shall implement the terms of the approved settlement as specifically stated in the agreement.

### **Order**

Based on the foregoing, Complainant's *Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice* is GRANTED and the parties' *Adjudicatory Settlement Agreement Pursuant to 29 C.F.R. § 1978.111(d)(2)* is APPROVED. This case is hereby DISMISSED with prejudice.

**SO ORDERED:**

STEPHEN R. HENLEY  
Chief Administrative Law Judge