



Issue Date: 28 January 2015

Case No.: 2014-STA-39

In the Matter of:

Martin J. Labut,
Complainant

v.

United Parcel Service, Inc.,
Respondent

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT AND
DISMISSING COMPLAINT WITH PREJUDICE**

This proceeding arises from a complaint of discrimination filed by Martin J. Labut (“Complainant”) against United Parcel Service, Inc., (“Respondent”), under the employee protection provisions of the Surface Transportation Assistance Act of 1982, 49 U.S.C. Section 31105. The formal hearing was set for September 16, 2014, in Detroit, Michigan, and was cancelled at the parties’ joint request. The parties have reached a settlement, and on January 21, 2015, the parties filed a document entitled “Confidential Settlement Agreement and Release” (hereinafter “Settlement Agreement”). The parties have also filed a “Joint Motion to Approve Settlement and Dismiss Proceeding, Application and Amendment with Prejudice.”

In reviewing the Settlement Agreement, I must determine whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondents violated the STA whistleblower provisions. I find that the Settlement Agreement complies with the standard required and it is APPROVED pursuant to 29 C.F.R. § 1980.111(d)(2).

With regard to confidentiality of the Settlement Agreement, the parties are advised that notwithstanding the confidential nature of the Settlement Agreement, all of their filings, including the Settlement Agreement, are part of the record in this case and may be subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C.A. § 552 *et seq.* The Administrative Review Board has noted that:

If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine *at the time a request is made* whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.

Seater v. S. Cal. Edison Co., USDOL/OALJ Reporter (PDF), ARB No. 97-072, ALJ No. 1995-ERA-00013 at 2 (ARB March 27, 1997) (emphasis added). Should disclosure be requested, the parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

In reviewing the Settlement Agreement, I also note that my authority over settlement agreements is limited to the statutes that are within my jurisdiction as defined by the applicable statute. Therefore, I approve only the terms of the Agreement pertaining to the Complainant's current STA case, 2014-STA-00039. *Anderson v. Schering Corp.*, ARB No. 10-070, ALJ No. 2010-SOX-7 (ARB Jan. 31, 2011).

Accordingly, it is **ORDERED** that:

- (1) The Motion is **GRANTED**;
- (2) The Settlement Agreement is **APPROVED**; and
- (3) The Complaint of Martin J. Labut is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

LINDA S. CHAPMAN
Administrative Law Judge