



Issue Date: 27 January 2016

In the Matter of
MICHAEL A. LUTHER
Complainant

And

**CHARLES COVEY, BANKRUPTCY TRUSTEE
IN THE BANKRUPTCY ESTATE OF COMPLAINANT ET UX**

v.

Case No 2014 STA 00063

BNSF RAILWAY COMPANY
Respondent

Dorothy Stephens, Esquire

For the Department of Labor

Joel F. Handler, Esquire

For Complainant Charles Covey, Bankruptcy Trustee

Paul Balanon, Esquire

For Respondent

ORDER
APPROVAL OF SETTLEMENT
and
DISMISSAL OF CLAIM

This proceeding arises under Section 405 of the Surface Transportation Assistance Act of 1982 (hereinafter ASTAA), 49 U.S.C. § 31105 (formerly 49 U.S.C. App. § 2305); 29 C.F.R. Part 1978, implementing regulations found at 29 C.F.R. Part 24; and the Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges found at 29 C.F.R. Part 18. I am asked to approve a settlement and to dismiss this proceeding without prejudice.

This case was scheduled for hearing in Chicago on November 2, 2015. On March 31, 2015, the Bankruptcy Trustee intervened in the claim. On October 5, 2015, I was advised that the case had settled and the hearing is unnecessary and I cancelled the hearing. The Bankruptcy Court had to first address settlement. On January 8, 2016, the parties submitted a Motion to Dismiss with an attached settlement and Release.

Under the STAA and implementing regulations, a proceeding may be terminated on a basis of a settlement provided either the Secretary or the Administrative Law Judge approves the agreement. 49 U.S.C. app. § 2305 (c)(2)(A); 29 C.F.R. § 1978.111(d)(2). The parties must submit for review an entire agreement to which each party has consented. *Tankersley v. Triple Crown Services, Inc.*, 92-STA-8 (Sec'y Feb. 18, 1993). The agreement must be reviewed to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. *Macktal v. Secretary of Labor*, 923 F.2d 1150 (5th Cir. 1991); *Thompson v. U.S. Department of Labor*, 885 F.2d 551 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec'y Ord. Mar. 23, 1989, slip op. at 1-2.

After a review of the record, I find that the Settlement Agreement is fair, adequate and reasonable, and accordingly, I Order approval of the settlement terms and dismissal of the complaint without prejudice as requested by the parties.

SO ORDERED

DANIEL F. SOLOMON
ADMINISTRATIVE LAW JUDGE