

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 20 April 2016

ALJ NO.: 2015-STA-00073

In the Matter of:

ZACHARY EASTMAN,
Complainant,

v.

NEW ENGLAND PARTS WAREHOUSE,
Respondent.

**DECISION AND ORDER APPROVING SETTLEMENT AND GENERAL
RELEASE AND DISMISSING COMPLAINT**

This proceeding arises under the employee protection provisions of Section 405 of the Surface Transportation Assistance Act (“STAA”), as amended, 49 U.S.C.A. § 31105 (West 2008) and the procedural regulations found at 29 C.F.R. Part 1978 (2012). The Complainant, Zachary Eastman, filed a complaint of discrimination with the United States Department of Labor against New England Parts Warehouse. The matter was heard on February 18, 2016. Thereafter, on April 19, 2016, the parties submitted a Settlement Agreement, General Release of All Claims and Covenant Not to Sue.

Implementing Federal regulations at 29 CFR §1978.111(d)(2) provides that “At any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ, if the case is before the judge. In reviewing the Settlement Agreement, the Administrative Law Judge must determine whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondent violated the STAA. See - *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-36 (ARB Dec. 16, 2009); *Thompson v. G&W Transportation Co., Inc.*, 90-STA-25 (Sec’y Oct.24, 1990) Once the settlement agreement is approved, it becomes the final action of the Secretary, 29 CFR §1978.111(e).

Paragraph 16 of the Settlement Agreement provides that the agreement and any disputes arising therefrom shall be governed and construed in accordance with the laws of the State of New Hampshire. This choice of law provision is construed as not limiting the authority of the Secretary of Labor and any Federal court. See *Phillips v. Citizens. Assoc. for Sound Energy*, No. 91-ERA-25, slip op. at 2 (Sec’y Nov. 4, 1991).

I have reviewed the parties settlement agreement pursuant to 29 C.F.R. § 1978.111(d)(2). I have carefully considered the terms of the parties' settlement agreement. I find it is a fair, adequate and reasonable settlement of the complaint and I approve the agreement.

In addition, I have reviewed the parties' request that the settlement be confidential and that it be accorded confidential treatment. The rules governing confidential treatment to such information are set forth at 29 C.F.R. § 70.26, and the parties' request will be granted pursuant to the rule.¹ To the extent the Release and Waiver contains provisions that may relate to actions by Complainant or Respondent under any other statute, this Decision and Order makes no determination regarding the propriety of such provisions.

Accordingly, **IT IS ORDERED** that the Settlement Agreement and General Release of All Claims be, and it hereby is, **APPROVED**;

IT IS FURTHER ORDERED that the complaint filed in this matter, be, and it hereby is, **DISMISSED WITH PREJUDICE**, and;

IT IS FURTHER ORDERED that the Settlement Agreement be accorded confidential treatment under 29 C.F.R. § 70.26.

SO ORDERED.

COLLEEN A. GERAGHTY
Administrative Law Judge

Boston, Massachusetts

¹ The parties are advised that their 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. The FOIA requires Federal agencies, including the Department of Labor, to disclose requested records unless they are exempt from disclosure under the Act. Therefore, the Department of Labor must respond to any request to inspect and copy the record of this case as provided in the FOIA. 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., 1995-ERA-13 (ARB March 27, 1997). As noted above, the parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.