



*Issue Date: 10 April 2018*

*In the Matter of*  
**CEDRIC SINKFIELD,**  
*Complainant,*

v.

**CASE NO.: 2015-STA-00035**

**MARTEN TRANSPORT, LTD.,**  
*Respondent.*

Paul O. Taylor, Esquire  
*For Complainant*

Scott M. Paler, Esquire  
*For Respondent*

**DECISION AND ORDER**  
***APPROVAL OF SETTLEMENT***  
*and*  
**DISMISSAL OF CLAIM**

This proceeding arises from a claim brought under the employee protection provisions of the Surface Transportation Assistance Act (“the Act”), 49 U.S.C. § 31105. On February 4, 2016, I issued a Decision and Order finding that Complainant is entitled to relief under the Act. That Decision and Order was appealed to the Administrative Review Board, which affirmed the liability and compensatory damages determinations and vacated the punitive damages award and remanded the claim. See ARB CASE NO. 16-037, January 17, 2018.

On January 17, 2018, I entered an order to comment. However, on March 12, 2018 I received the parties’ joint Motion to Vacate the briefing schedule as the parties settled. That motion was granted and on April 9, 2018, I received copies of the parties’ Motion to Approve Settlement Agreement.

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 (5<sup>th</sup> Cir. 1991); *Thompson v. U.S. Department of*

*Labor*, 885 F.2d 551 (9<sup>th</sup> 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.

I find the overall settlement terms to be reasonable, but some clarification is necessary. I note that the Settlement Agreement incorporates certain confidentiality provisions binding upon the parties in a nondisclosure provision. (Paragraph 11). I find that the provisions are acceptable. *See generally Connecticut Light & Power Co. v. Secretary of the U.S. Department of Labor*, 85 F.3d 89 (2<sup>nd</sup> Cir. 1996). However, the parties are advised that records in whistleblower cases are agency records which the agency must make available for public inspection and copying under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. It has been held in a number of cases with respect to confidentiality provisions in Settlement Agreements that the FOIA requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and copying under the Freedom of Information Act.

The Settlement Agreement calls for \$70,000 in attorney fees to be paid to Taylor & Associates, Ltd., d.b.a. Truckers Justice Center. I previously awarded Complainant’s attorney \$58,928.95 in in this case for fees through the hearing and post-hearing briefing. He requests fees through the proceedings before the Administrative Review Board of \$11,666.38. He does not seek payment for time involved in settlement negotiations, drafting the settlement agreement or other time involved in discussions with Respondent’s counsel after the issuance of the Board’s Order of Remand.

After considering all the relevant factors, I find that the agreed-upon attorney’s fee is “reasonably commensurate with the necessary work done” and takes into account the quality of the representation, the complexity of the legal issues involved, and the amount of the benefits awarded.

After having been fully advised I enter the following:

1. The settlement is **APPROVED**.
2. The Motion to Approve Settlement Agreement is **GRANTED**.
3. The Supplemental Decision and Order dated November 6, 2017 is duly noted.
4. The attorney for Complainant shall receive seventy thousand dollars (\$70,000.00) for attorney’s fees. However, Respondents shall receive credit for attorney’s fees paid to date under the terms of the Supplemental Order dated November 6, 2017.

5. The claim is hereby **DISMISSED**.

**DANIEL F. SOLOMON**  
**ADMINISTRATIVE LAW JUDGE**