



Issue Date: 18 July 2016

CASE NO: 2016-STA-00016

In the Matter of:

GARY MILLER,
Complainant,

v.

ADVANCED DISPOSAL,
Respondent.

**ORDER APPROVING SETTLEMENT AGREEMENT
AND ORDER CANCELING HEARING
AND ORDER OF DISMISSAL**

This case arises under the employee protection provisions of Section 31105 of the Surface Transportation Assistance Act of 1982, U.S. Code, Title 49, § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 (“STAA”). On July 5, 2016, the parties submitted a Confidential Settlement Agreement and General Release for review. Upon review of the settlement agreement, I find that its terms are fair, adequate, and reasonable, and do not contravene the public interest.

The settlement appears to be a global settlement purporting to dispose of claims in addition to the claim brought under the STAA. My authority to approve the settlement agreement is limited to matters that are before me – that is, to approve the settlement agreement only insofar as it resolves Mr. Miller’s complaints under the STAA. My approval should not be construed as approving the resolution of any claims brought under any other federal statute or under state law. This reservation is not intended to address the effectiveness of the settlement with respect to other claims, and the parties are not precluded from raising the settlement agreement in the course of other proceedings, if any arise.

The parties agree that the terms of the settlement agreement shall be kept confidential and state that they “intend for this Agreement to be exempt from the Freedom of Information Act, 5 U.S.C. § 552.” Respondent “requests notice of any request or proceeding pursuant to the Freedom of Information Act so it may object to the release of this Agreement or the terms hereof as privileged or confidential commercial or financial information exempt from disclosure. 5 U.S.C. § 552(b).” FOIA requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, 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. Consistent with their request, however, the parties will be provided a pre-disclosure notification giving them the opportunity to challenge any such potential disclosure. In the event the Agreement is disclosed pursuant to FOIA, such disclosure is not a violation of the agreement and will not result in a violation of the agreement.

Paragraph 15 of the parties' agreement states that the "Agreement shall be interpreted and construed in accordance with the laws of South Carolina, without regard to conflicts of laws principles, except that the validity of the release, waiver and covenant not to sue, with respect to any claims arising under federal law, shall be governed by the applicable federal law." I construe Paragraph 15 as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States.

Accordingly, with the reservations noted above and limiting my approval to the complaints brought under STAA, **IT IS ORDERED:**

1. The settlement agreement between the parties submitted on July 5, 2016, is **APPROVED**;
2. The formal hearing in this matter scheduled for September 14-16, 2016, in Columbia, South Carolina, is hereby **CANCELED**; and
3. This matter is **DISMISSED** with prejudice.

SO ORDERED.

MONICA MARKLEY
Administrative Law Judge

MM/mc
Newport News, Virginia