

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 09 May 2017**

**Case Number: 2016-STA-00058**

*In the Matter of:*

**KENT TURNER**

**Complainant,**

**v.**

**RELIABLE CARRIERS, INC.,  
RCI LOGISTICS, INC.,  
TOM ABRAMS, and JIM TRUE**

**Respondents**

Appearances: Paul O. Taylor, Esq.  
Peter L. LaVoie, Esq.  
Truckers Justice Center  
Burnsville, Minnesota  
For the Complainant

Brett A. Asher, Esq.  
Mark C. Knoth, Esq.  
Kerr, Russell and Weber, PLC  
Detroit, Michigan  
For the Respondents

Before: Stephen R. Henley  
Chief Administrative Law Judge

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT**

This proceeding arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982, as amended, ("STAA" or "Act"), 49 U.S.C. § 31105, and the regulations promulgated thereunder at 29 C.F.R. Part 1978. Section 405 of the STAA protects employees from discharge, discipline, and other forms of retaliation for engaging in

protected activity, such as reporting violations of commercial motor vehicle safety rules or refusing to operate a vehicle when the operation would violate these rules or cause serious injury.

This case was initially scheduled for hearing on March 15, 2017 in Las Vegas, Nevada and continued to June 13, 2017 at the parties' request. On April 17, 2017, the undersigned issued an order cancelling the June 13, 2017 hearing after being advised that the parties had reached a settlement.<sup>1</sup> On May 5, 2017, the parties submitted a *Confidential Settlement Agreement and General Release* ("Settlement")<sup>2</sup> for my review and requested that this case be dismissed.<sup>3</sup>

The STAA and implementing regulations provide that proceedings may be terminated on the basis of a settlement if either the Secretary or the Administrative Law Judge approves the settlement. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). Under the STAA, a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-00036 (ARB Dec. 16, 2009). Consistent with this required review, the regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be." 29 C.F.R. 1978.111(d)(2). Any settlement approved by the Assistant Secretary, the ALJ or the ARB constitutes the final order of the Secretary and may be enforced pursuant to § 1978.113. 29 C.F.R. § 1978.111(e).

Having reviewed the settlement agreement and its provisions, which includes dismissal of the complaint with prejudice, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest.<sup>4</sup> I also find that the settlement was not procured through duress.<sup>5</sup> Accordingly, I approve the parties' Settlement and dismiss the complaint with

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<sup>1</sup> The parties participated in mediation services offered by the Office of Administrative Law Judges pursuant to an order appointing issued on February 15, 2017.

<sup>2</sup> 29 C.F.R. § 1982.111(d)(1) states that at any time after the filing of objections to the Assistant Secretary's findings and preliminary order, the case may be settled, and, if the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge.

<sup>3</sup> The parties have agreed that the terms of the settlement will be treated as confidential. The parties are afforded the right to request that information be treated as confidential commercial information where, as here, they are required to submit information involuntarily. 20 C.F.R. § 70.26(b) (2001). The DOL is then required to take steps to preserve the confidentiality of that information, and must provide the parties with predislosure notification if a FOIA request is received seeking release of that information. Accordingly, the Settlement in this matter will be placed in an envelope marked "PREDISCLURE NOTIFICATION MATERIALS." Consequently, before any information in this file is disclosed pursuant to a FOIA request, the DOL is required to notify the parties to permit them to file any objections to disclosure. *See* 29 C.F.R. § 70.26 (2001). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Settlement.

<sup>4</sup> I note that the Settlement provides a total settlement amount but does not allocate a specific portion of the settlement for attorney's fees. Although settlement agreements commonly provide a specific allocation for attorney's fees, I find that the total amount of the settlement is fair, adequate, and reasonable compensation of Complainant's claim and attorney's fees in this matter.

<sup>5</sup> I find that Complainant and Respondents were ably represented by counsel.

prejudice.<sup>6</sup> To the extent not otherwise done so, the parties shall implement the terms of the approved settlement as specifically stated in the agreement.

**ORDER**

The settlement agreement is APPROVED and this matter is DISMISSED with prejudice.

**SO ORDERED:**

**STEPHEN R. HENLEY**  
Chief Administrative Law Judge

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<sup>6</sup> This approval applies only to the STAA complaint over which the Office of Administrative Law Judges has jurisdiction.