



**Issue Date: 20 February 2018**

OALJ Case No.: 2017-STA-00001  
OSHA Case No.: 4-1760-16-060

*In the Matter of:*

**JONDAVID BALUNEK,**  
*Complainant,*

v.

**DEAN TRANSPORTATION, INC.,**  
*Respondent,*

*and*

**PURITY DAIRY, LLC,**  
*Respondent.*

**ORDER APPROVING SETTLEMENT AGREEMENT AND DISMISSING CASE**

The matter arises under the whistleblower protection provisions of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, and the corresponding regulations found at 29 C.F.R. Part 1978. It was scheduled for hearing in Nashville, Tennessee, on April 11, 2017, but the hearing was continued to permit the parties to pursue settlement negotiations. On February 6, 2018, the parties submitted a *Joint Motion for Approval of Settlement Agreement* along with a *Confidential Settlement Agreement and General Release* (“Settlement Agreement”) signed by the parties.

Proceedings under the STAA may be terminated on the basis of an adjudicatory settlement agreement if approved by the appropriate tribunal. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d). The STAA’s implementing 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). If the parties reach a settlement after commencement of proceedings before Office of Administrative Law Judges, the settlement agreement does not become effective until the administrative law judge has reviewed the terms of the agreement and determined them to be fair, adequate and reasonable, and in the public interest. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-036 (ARB Dec. 16, 2009). Any settlement approved by the Assistant Secretary, the administrative law judge, or the Administrative Review Board constitutes the final order

of the Secretary and may be subject to judicial enforcement under § 1978.113. 29 C.F.R. § 1978.111(e).

Having reviewed the provisions of the Settlement Agreement, which includes dismissal of the underlying complaint with prejudice, I find that the terms, obligations, and conditions are fair, adequate and reasonable, and in the public interest.<sup>1</sup> I also find that the Settlement Agreement was not procured through duress.<sup>2</sup> Accordingly, I approve the parties' Settlement Agreement and dismiss this case with prejudice.<sup>3</sup> To the extent that they have not already done so, the parties shall implement the terms of the approved settlement as specifically stated in the agreement.

### **Order**

Based on the foregoing, the *Joint Motion for Approval of Settlement Agreement* is **GRANTED**, and the parties' Confidential Settlement and Release Agreement is **APPROVED**. This case is hereby **DISMISSED** with prejudice.

**SO ORDERED.**

**MORRIS D. DAVIS**  
Administrative Law Judge

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<sup>1</sup> The parties have agreed that the terms of the settlement will be treated as confidential by Complainant. The parties are afforded the right to request that information be treated as confidential commercial information under Exemption 4 of the Freedom of Information Act ("FOIA"). 29 C.F.R. § 70.26. The Department of Labor is then required to take steps to preserve the confidentiality of that information, and must provide the parties with predisclosure 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 "*PREDISCLOSURE NOTIFICATION MATERIALS*." Consequently, before any information in this file is disclosed pursuant to a FOIA request, the Department of Labor is required to notify the parties to permit them to file any objections to disclosure. *See id.* § 70.26 (c)-(e). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Settlement Agreement.

<sup>2</sup> I find that Complainant and Respondents were competently and zealously represented by counsel.

<sup>3</sup> This Order applies only to the STAA complaint over which the Office of Administrative Law Judges has jurisdiction.