

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 12 July 2018

Case No.: 2018-STA-00002

In the Matter of:

RODOLFO LOPEZ,
Complainant,

v.

SRS DISTRIBUTION INC.
d/b/a SOUTHERN SHINGLES,
Respondent.

Appearances: James D. Tawney, Esq.
Flores Tawney Acosta P.C.
Las Cruces, New Mexico
For the Complainant

Jeff T. Leslie, Esq.
Bindu R. Gross, Esq.
Ogletree, Deakins, Mash, Smoak & Stewart, P.C.
Dallas, Texas
For the Respondent

Before: Stephen R. Henley
Chief Administrative Law Judge

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT

The above-captioned case arises under the whistleblower protection provisions of the Surface Transportation Assistance Act of 1982 (“STAA” or the “Act”), 49 U.S.C. § 31105, and the corresponding regulations found at 29 C.F.R. Part 1978. It was scheduled for hearing in Las Cruces, New Mexico on June 20, 2018,¹ but the hearing was cancelled by order issued on June 12, 2018 upon receipt of advice that the parties had reached a settlement.

On June 27, 2018, Respondent, through counsel, submitted an undated, unsigned *Confidential Settlement Agreement and General Release*. On July 2, 2018, I issued an order instructing the parties to

¹ The hearing was originally scheduled for May 1, 2018 and the parties were granted a continuance at the request of SRS Distribution Inc. d/b/a Southern Shingles (“Respondent”).

submit a signed, dated agreement for my review.² On July 10, 2018, counsel for Respondent submitted a fully executed copy of the *Confidential Settlement Agreement and General Release* (“Settlement Agreement”).³

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. I also find that the settlement was not procured through duress.⁴ Accordingly, I approve the parties’ Settlement Agreement and dismiss the complaint with prejudice.⁵ 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

² The July 2, 2018 order erroneously stated that counsel for Complainant submitted the Settlement Agreement, rather than counsel for Respondent.

³ 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 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 “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.

⁴ I find that Complainant and Respondent were ably represented by counsel.

⁵ This approval applies only to the STAA complaint over which the Office of Administrative Law Judges has jurisdiction.