



Issue Date: 13 February 2019

CASE NO.: 2018-STA-39

IN THE MATTER OF

BILLY MILLER

Complainant

v.

**PROGRESS RAIL SERVICES CORPORATION,
TONY BARTOLINI, JEFFREY DAY and RONNIE CONLY**

Respondents

**ORDER APPROVING SETTLEMENT
AGREEMENT AND DISMISSING CASE**

This case arises under Section 405, the employee protection provision of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. §31105 (West 2008), (herein STAA) and the implementing regulations at 29 C.F.R. Part 1978. The parties have filed a request for approval of their settlement agreement and dismissal of the complaint with prejudice.

Pursuant to Section 31105(b)(2)(C) of the Act, "[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation" under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Secretary's findings "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board. . . or the ALJ." 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. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec'y Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board as the case may be." *Id.* On February 12, 2019, the parties filed their "Confidential Settlement Agreement and General Release."

I have carefully reviewed the parties' settlement agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. My authority over settlement agreements is limited to the statutes that are within the jurisdiction of the Office of Administrative Law Judges as defined by the applicable statute. Accordingly, I approve only the terms of the agreement pertaining to Complainant's STAA Case.

Finally, the Agreement provides that the parties shall keep the terms of the settlement confidential.¹ I note that the parties' submissions, including the Agreement, become part of the record of the case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C.A §552 (West 2007). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.² Department of Labor regulations provide specific procedures for responding to FOIA requests and for appeals by requestors from denials of such requests.³

Accordingly, **IT IS ORDERED** the settlement agreement be approved and the instant complaint be dismissed with prejudice.

ORDERED this 13th day of February, 2019, at Covington, Louisiana.

LEE J. ROMERO, JR.
Administrative Law Judge

¹ Paragraph 13.

² *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 1996-TSC-005-006.. slip op. @ 2 (ARB June 24, 1996).

³ 29 C.F.R. §70 *et seq.* 2007).