

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 08 October 2020

CASE NO.: 2020-STA-00035

In the Matter of:

JOSHUA ISRAEL GOINGS,
Complainant,

v.

BIG BUS TOURS NEW YORK,
Respondent.

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING COMPLAINT WITH PREJUDICE**

This proceeding arises from a complaint filed under the Surface Transportation Assistance Act, 49 U.S.C. § 31105 (“STAA” or the “Act”), and the procedural regulations found at 29 C.F.R. Part 1978. On September 10, 2019, Complainant filed a complaint against Respondent, alleging that he was retaliated against in violation of STAA. On February 11, 2020, the Occupational Safety and Health Administration of the U.S. Department of Labor issued Secretary’s Findings, finding “OSHA is unable to conclude that there is a reasonable cause to believe that a violation of the statute occurred”

On March 10, 2020, Complainant filed its Objections to the Secretary’s Findings, and requested a formal hearing. The matter was referred to the Office of Administrative Law Judges (“OALJ”), on that date, and assigned to me on June 22, 2020. The formal hearing in this matter is scheduled for February 23, 2021.

On September 14, 2020, Respondent filed its Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice (“Motion”), together with the parties’ Confidential Settlement Agreement and General Release (“Settlement Agreement”), which is incorporated by reference and made a part of the Order approving the Settlement Agreement. The Settlement Agreement was signed by Complainant, and by Charles Nolen for Respondent.

Pursuant to § 31105(b)(2)(C) of the STAA, “[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 Assistant Secretary’s findings “if the participating parties agree to a settlement and the settlement is approved by the

ALJ . . . or by the ARB.” 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. *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 agreement “with the ALJ or the Administrative Review Board as the case may be.” *Id.*

I have carefully reviewed the parties’ Settlement Agreement and have determined that it constitutes a fair, adequate, and reasonable settlement of the complaint.

Accordingly, **IT IS HEREEBY ORDERED** that that Settlement Agreement is **APPROVED** and the complaint is **DISMISSED** with prejudice.

SO ORDERED.

NORAN J. CAMP
Administrative Law Judge

Boston, Massachusetts