



Issue Date: 29 December 2020

CASE NO.: 2020-STA-00023

In the Matter of:

DALE MORRISSEY,
Complainant,

vs.

C&W TRANSPORTATION COMPANY
Respondent.

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

This proceeding arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 31105, and the regulations promulgated at 29 C.F.R. Part 1978 (the “STAA”). This case is currently scheduled for videohearing before me on January 14, 2021.

On December 9, 2020, Complainant, through counsel, submitted *Complainant’s Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice*. A copy of the parties’ Settlement Agreement was also filed for my approval.¹ The Settlement Agreement was signed on November 28, 2020, by Complainant and by a General Manager of Respondent C&W Transportation Company.

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

¹ 29 C.F.R. § 1978.111(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. Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 1978.111(e).

Administrative Review Board, United States Department of Labor, as the case may be.” 29 C.F.R. § 1978.111(d)(2).

The Settlement Agreement includes a confidentiality provision agreed to by the parties. The files maintained by this Office, including this Settlement Agreement, are subject to disclosure under the provisions of the Freedom of Information Act (“FOIA”), unless an exemption applies. 5 U.S.C. § 552; *Johnson v. U.S. Bancorp*, ARB No. 13-014, 13-046, ALJ No. 2010-SOX-00037, slip op. at 2 (ARB July 22, 2013). The Department of Labor has regulations that govern the FOIA process, and exemptions are determined at the time of the request, not at the time of the filing of the agreement. 29 C.F.R. Part 70; *Johnson v. U.S. Bancorp*, ARB No. 13-014, 13-046, ALJ No. 2010-SOX-00037, slip op. at 2 (ARB July 22, 2013). The parties agree to maintain the agreement confidential, which I construe to mean they object to any disclosure under FOIA. The Settlement Agreement shall be sealed or marked with a notice that the parties object to disclosure and seek the procedures of 29 C.F.R. § 70.26 prior to any release of information.

The Settlement Agreement also includes a general release of all known and unknown claims, which purports to resolve matters and potential matters under state and federal laws other than the STAA. My authority over settlement agreements is limited to the statutes that are within my jurisdiction, and I have restricted my review of the Settlement Agreement to ascertaining whether its terms fairly, adequately, and reasonably settle this STA case. *Mann v. Schwan’s Food Company*, ARB No. 09-017, ALJ No. 2008-STA-00027, slip op. at 4 (ARB Dec. 31, 2008).

As construed, and after carefully considering the terms of the Settlement Agreement, I find that the terms and conditions appear to be fair, adequate, and reasonable. I further find that the Settlement Agreement is not contrary to the public interest. *See Carciero v. Sodexo Alliance, S.A.*, ARB No. 09-067, ALJ No. 2008-SOX-012, slip op. at 3 (ARB Sept. 30, 2010). I also find that Complainant and Respondent were ably represented by counsel.

Accordingly, the Settlement Agreement is **APPROVED** and shall be the final order of the Secretary and may be enforced pursuant to 29 C.F.R. § 1978.113. The complaint filed in this matter is **DISMISSED** with prejudice. The January 14, 2021, videohearing is **CANCELLED**.

SO ORDERED.

SUSAN HOFFMAN
Administrative Law Judge