



Issue Date: 01 April 2022

Case No.: 2021-STA-00047

In the Matter of

ALDO REYNA,
Complainant

v.

M G DYESS, INC.,
Respondent

DECISION AND ORDER APPROVING SETTLEMENT

1. Nature of Motion. Pursuant to 29 C.F.R. § 18.71(a), the parties submitted a motion requesting the undersigned approve a proposed settlement agreement in this matter.

2. Procedural History and Findings of Fact.

a. This case arises pursuant to a complaint alleging violations under the employee protective provisions of the Surface Transportation Assistance Act (“STAA” or “the Act”), 49 U.S.C. § 31105, and the implementing regulations at 29 C.F.R. Part 1978. The Act includes a whistleblower protection provision with a Department of Labor complaint procedure.

b. Pursuant to the Act, Complainant filed a retaliation complaint with the Occupational Safety and Health Administration (OSHA) against Respondent, alleging Respondent terminated his employment for in retaliation for reporting safety violations].

c. The Secretary, acting through the Regional Administrator, issued findings and an order that concluded there is no reasonable cause to believe Respondent violated the Act.

d. Complainant objected to the Secretary’s findings and requested a hearing before the Office of Administrative Law Judges (OALJ). The undersigned issued a Case Scheduling Order and Filing Deadlines establishing the procedural filing requirements and discovery obligations the parties must satisfy before a formal hearing date will be scheduled in this matter.

e. On March 10, 2022, Complainant filed an Unopposed Motion to Approve Settlement and Dismiss Proceedings with Prejudice for the undersigned’s approval. Complainant’s motion

did not request the undersigned seal any portion of the settlement agreement filed with the motion, pursuant to 29 C.F.R. § 18.85.

3. Applicable Law and Analysis.

At any time after the filing of objections to the Assistant Secretary's findings and preliminary order, the case may be settled. If the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. 29 C.F.R. § 1978.111(d)(2)].

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

The undersigned reviewed and fully considered the parties' settlement agreement and all the terms contained therein. The undersigned concludes all the terms in the settlement agreement are fair, adequate, reasonable, and not contrary to public policy.¹

4. Ruling and Terms of Order. Complainant's unopposed motion is granted, and the settlement agreement is **APPROVED**.

a. The settlement agreement shall be enforced pursuant to the Act, and the specific terms in the settlement agreement shall be executed by the parties.

b. This Order has same force and effect as one made after a full hearing on the merits and is the final order of the Secretary on this matter.

SO ORDERED this day.

TRACY A. DALY
ADMINISTRATIVE LAW JUDGE

¹ To the extent the parties' settlement agreement encompasses settlement of matters under federal and/or state laws other than the Act, the undersigned's review is limited to whether the terms of the settlement agreement are a fair, adequate, and reasonable settlement of Complainant's allegations that Respondent violated the Act. *See Poulos v. Ambassador Fuel Oil Co. Inc.*, Case No. 86-CAA-1, Sec. Order, (Nov. 2, 1987)("[t]he Secretary's authority over the settlement agreement is limited to such statutes as are within [the Secretary's] jurisdiction and is defined by the applicable statute.").