

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Cincinnati, Ohio 45202
513-684-3252 Office

Issue Date: 03 October 2023

CASE NO.: 2023-STA-00035
OSHA NO.: 301008369

In the Matter of:

SHERRY BOLAR,
Complainant,

v.

H.G. MAYS CORPORATION,
Respondent.

**DECISION AND ORDER APPROVING CONFIDENTIAL SETTLEMENT AGREEMENT AND
DISMISSING CLAIM WITH PREJUDICE¹**

This matter arises out of a complaint filed by Sherry Bolar (the “Complainant”) against H.G. Mays Corporation (the “Respondent”) under § 405 of the employee-protection provisions of the Surface Transportation Assistance Act of 1982 (“STAA” or “Act”), 49 U.S.C. § 31101 *et seq.*, and the implementing regulations at 29 C.F.R. Part 1978.

On October 2, 2023, the parties filed a Settlement Agreement and Release of Claims (“Settlement Agreement”), signed by both the Complainant and a representative of the Respondents. The parties requested that the Settlement Agreement remain confidential.²

¹ This Decision and Order has been formatted to substantially comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d), as amended (“Section 508”). Section 508 requires electronic and information technology procured, developed, maintained, and used by Federal departments and agencies to be accessible to and usable by people with disabilities, unless an exception applies.

² The parties have agreed that the terms of the Settlement Agreement are confidential. Consistent with 29 C.F.R. § 70.26 (2017) and Executive Order 12,600, “Predisclosure Notification Procedures for Confidential Commercial Information” (Exec. Or. 12,600, 52 Fed. Reg. 23781, 3 C.F.R., 1988 Comp., 235), the materials contained in the Settlement will be placed in a confidential file. Moreover, in this Order, the undersigned has refrained from referencing any specific terms or dollar amounts contained in the Settlement Agreement. In general, confidential commercial information will be disclosed under the Freedom of Information Act (“FOIA”) only in accordance with 29 C.F.R. § 70.26 and Executive Order 12,600. Pursuant to 29 C.F.R. § 70.26(a), a submitter of confidential commercial information must use good-faith efforts to designate any portions of its submission that it considers to be protected from

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 the regulations, 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 such settlement is approved by the” Administrative Review Board (“ARB”) or Administrative Law Judge (“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 requirement, the regulations direct the parties to file a copy of the settlement “with the ALJ or the ARB, as the case may be.” 29 C.F.R. § 1978.111(d)(2).

The ARB requires that all parties requesting settlement approval provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim or certify that the parties have not entered into other such settlement agreements. See *Biddy v. Alyeska Pipeline Serv. Co.*, ARB Nos. 96-109, 97-015, ALJ No. 95-TSC-7, slip op. at 3 (ARB Dec. 3, 1996). Here, the parties submitted a release of claims, specifically releasing the Respondent from liability under the STAA claim, as well as a release of claims under any complaint, charge, or proceeding arising from federal, state, or local government agencies. Although the agreement encompasses settlement of matters under laws other than the STAA, authority over settlement agreements is limited to such statutes as are within the forum’s subject-matter jurisdiction and defined by the applicable statute. Therefore, I may approve only the terms of the settlement agreement pertaining to the Complainant’s STAA claims.³

I have carefully reviewed the parties’ Settlement Agreement and have determined that its terms are fair, adequate, reasonable, and consistent with public policy. Accordingly, it is hereby **ORDERED** that the Settlement Agreement is **APPROVED**, and the complaints that gave rise to this litigation are **DISMISSED** with prejudice. Upon issuance of this Order, the parties shall implement its terms.

disclosure under Exemption 4. The Department of Labor (“Department”) will provide a submitter with prompt written notice of a FOIA request that seeks its confidential commercial information whenever required under 29 C.F.R. § 70.26(d), except as provided in 29 C.F.R. § 70.26(g), in order to give the submitter an opportunity to object in writing to disclosure of any specified portion of that information under paragraph 29 C.F.R. § 70.26(e).

³ See *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00- STA-56 (ARB Apr. 30, 2003).

SO ORDERED.

JOHN P. SELLERS, III
ADMINISTRATIVE LAW JUDGE