

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Pittsburgh, PA

Issue Date: 03 June 2024

CASE NO.: 2024-STA-00024

In the Matter of:

EDUARDO BURTES,
Complainant

v.

MINSTAR TRANSPORTATION, INC.,
Respondent

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

This proceeding arises under the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 31105 (“STAA” or “the Act”) and the regulations promulgated thereunder at 29 C.F.R. Part 1978 and 20 C.F.R. Part 24. Complainant filed a complaint under the Act on or about May 17, 2023. On December 6, 2023, Complainant requested a hearing based upon the Secretary’s November 28, 2023 findings.

The case was assigned to the undersigned on February 5, 2024, and pursuant to a Notice of Hearing, a pre-hearing conference call was scheduled for May 16, 2024, and a hearing was scheduled for August 6, 2024, to continue as necessary, on August 7, 2024. On May 7, 2024, I rescheduled the pre-hearing conference call to June 10, 2024, at the request of the parties, due to their participation in the Office of Administrative Law Judges’ mediation program. The mediation was concluded on May 21, 2024, when a tentative settlement was reached.

On May 31, 2024, Complainant submitted an Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice. Later that same day, I received the parties’ Confidential Settlement Agreement and General Release (“Settlement Agreement”). Complainant asserted that he conferred with opposing party and agreed that the claim should be dismissed with prejudice, pursuant to the fulfillment of the Settlement Agreement terms.

Pursuant to STAA, Section 31105(b)(2)(C), “[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 the settlement is approved by the ALJ” so long as the case is before the ALJ. 29 C.F.R. § 1978.111(d)(2). A settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec’y Feb. 18, 1993).

The Settlement Agreement includes a general release of claims resolving a wide range of matters, including matters potentially arising under laws other than STAA. The undersigned's authority over settlement agreements is limited to the statutes that are within OALJ's jurisdiction; thus, I have restricted my review of the Settlement Agreement to ascertaining whether its terms fairly, adequately, and reasonably settle the issues under the STAA claim. *See Anderson v. Schering Corp.*, ARB No. 10- 070, ALJ No. 2010-SOX-7, slip op. at 3 (ARB Jan. 31, 2011).

In reviewing the terms of the Settlement Agreement, I find the terms fairly, adequately, and reasonably settle the Complainant's allegations against Respondent under STAA. *See* 29 C.F.R. § 1978.111(c). I find that the settlement agreement complies with the required standard, and that the parties have averred that they have completed all terms of the agreement. **Therefore, the settlement agreement is APPROVED.** *See id*; *Carciero v. Sodexo Alliance*, S.A. ARB No. 09-067, ALJ No. 2008-SOX-012, slip op. at 2 (ARB Sept. 30, 2010).

The parties have agreed to keep the specific terms of the agreement confidential, subject to applicable laws. To effectuate such confidentiality, I will have the settlement agreement sealed. However, notwithstanding the parties' agreement, the parties' submissions, including the settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(a). This clause does not bind the U.S. Department of Labor ("DOL") or prohibit disclosures made by DOL pursuant to FOIA, which requires federal agencies to disclose requested documents unless they are exempt from disclosure. 5 U.S.C. § 552; *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15 (ARB March 31, 1998); *Jordan v. Sprint Nextel Corp.*, ARB No. 06-105, Case No. 2006-SOX-41, slip op. at 12 (ARB June 19, 2008)(noting that there is "no authority permitting the sealing of a record in a whistleblower case because the case file is a government record subject to disclosure pursuant to [FOIA] unless the record qualifies for an exemption to such disclosure"). *See also Jessup v. Luther*, 277 F.3d 926 (7th Cir. 2002)(settlement agreement approved by federal judge was presumptively a public document that should not have been sealed). Thus, if a FOIA request is made for the settlement agreement, the DOL will have to respond and decide whether to exercise its discretion to claim any applicable exemption.

I further construe the parties' request for confidentiality as a request for pre-disclosure notification rights in accordance with 29 C.F.R. §70.26.¹ In the event that public disclosure is required, the parties will be afforded the opportunity to redact the financial terms of the Agreement from disclosure to the public. Accordingly, I note the parties have submitted a revised Agreement with the redaction of the financial terms, which will be maintained in a separate folder, and marked "**SETTLEMENT AGREEMENT – REDACTED FOR PUBLIC DISCLOSURE**". An unredacted version of the Agreement will be maintained separately and marked "**UNREDACTED AGREEMENT – NOT FOR PUBLIC DISCLOSURE.**" Consequently, before any disclosure of the settlement, whether redacted or unredacted, is disclosed pursuant to a FOIA request, the

¹ The parties are afforded the right to request that information be treated as confidential business information. *See* 29 C.F.R. § 70.26 (2016). The DOL is then required to take steps to preserve the confidentiality of that information, and must provide the parties with pre-disclosure notification if a FOIA request is received seeking release of that information.

DOL is required to notify the parties to permit them to file any objections to disclosure. *See* 29 C.F.R. § 70.26 (2016).

Accordingly, the parties' Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice is hereby **GRANTED**. Therefore, the above-captioned matter is **DISMISSED with prejudice**. The hearing scheduled to begin on August 6, 2024, and the pre-hearing conference call scheduled for June 10, 2024, are hereby **CANCELED**.

SO ORDERED.

SEAN M. RAMALEY
Administrative Law Judge