

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Newport News, VA

Issue Date: 23 July 2024

OALJ CASE NO.: 2024-STA-00034

OSHA CASE NO. 301021247

In the Matter of:

BENJAMIN MICKEL,
Complainant,
v.

HSD OPERATIONS, INC.,
D.B.A HOLLAND SPECIAL DELIVERY,
AND JIM MCCUAIG,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

ORDER DISMISSING COMPLAINT WITH PREJUDICE

This matter arises from a complaint filed under the provisions of Section 31105 of the Surface Transportation Assistance Act of 1982, U.S. Code, Title 49, § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 (“STAA”) and is governed by the implementing Regulations found in the Code of Federal Regulations, Title 29, Part 1978. Per 29 C.F.R. § 1978.107, the proceeding will be held in a manner consistent with the procedural rules set forth in federal regulations at 29 C.F.R. Part 18, Subpart A (29 C.F.R. § 18.10 to § 18.95).

On 7/18/2024, Complainant filed an Unopposed Motion to Approve Confidential Settlement Agreement, General Release, And Dismiss with Prejudice, signed by all Parties.

Implementing Federal regulations at 29 C.F.R. § 1978.111(d)(2) provides that “At any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ, if the case is before the judge, or by the ARB if the ARB has accepted the case for review. A copy of the settlement agreement must be filed with the administrative law judge or the ARB, as the case may be.” In reviewing the Settlement Agreement, the Administrative Law Judge must determine whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondent violated the STAA. See - *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-

020, ALJ No. 2009-STA-36 (ARB Dec. 16, 2009); *Thompson v. G&W Transportation Co., Inc.*, 90-STA-25 (Sec'y October 24, 1990). Once the settlement agreement is approved, it becomes the final action of the Secretary, 29 C.F.R. § 1978.111(e).

After review of the Settlement Agreement and the administrative record, this Administrative Law Judge finds that the Settlement Agreement complies with the standard required under the STAA and is approved.

Having carefully considered the Motion and the Settlement, and noting consent of the Parties, the undersigned finds that the Settlement is fair, adequate, and reasonable.

IT IS THEREFORE ORDERED that the Motion to Approve Settlement Agreement, General Release, and Dismiss with Prejudice is **GRANTED**.

IT IS FURTHER ORDERED the Settlement is **APPROVED**, and as provided therein, the captioned matter and Benjamin Mickel's complaint are **DISMISSED WITH PREJUDICE**.

SO ORDERED.

DANA ROSEN
Administrative Law Judge