



In the Matter of:

CYNTHIA BURKE,

ARB CASE NO. 11-090

COMPLAINANT,

ALJ CASE NO. 2011-NTS-001

v.

DATE: February 29, 2012

PTM OF CAPE COD, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Paul M. Igasaki, *Chief Administrative Appeals Judge*, and E. Cooper Brown, *Deputy Chief Administrative Appeals Judge*

**FINAL DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING PETITION FOR REVIEW**

This case arose when the Complainant, Cynthia Burke, filed a complaint under the whistleblower protection provisions of the National Transit Systems Security Act, of 2007 (NTSSA)¹ alleging that PTM of Cape Cod, Inc. (PTM) violated the NTSSA when it discharged her from employment. OSHA denied the complaint as untimely, and Burke requested a hearing before an Administrative Law Judge (ALJ).

A Department of Labor ALJ issued a Recommended Order of Dismissal (R. D. O.), and Burke filed a timely petition requesting the Administrative Review Board to review the ALJ's R. D. O. The Secretary of Labor has delegated her authority to issue final administrative decisions in NTSSA cases to this Board.²

¹ 6 U.S.C.A. § 1142 (Thomson/West Supp. 2011).

² Secretary's Order No. 1-2010 (Delegation of Authority and Assignment of

On January 25, 2012, the Board received Complainant's Request for Withdrawal and Settlement Agreement and Release. The parties may settle a case at any time after filing objections to the Assistant Secretary's preliminary findings, and before those findings become final, "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . ."³

We have reviewed the Settlement Agreement and Release and find it to be fair, adequate, and reasonable. But we note that the Agreement may encompass the settlement of matters under laws other than the NTSSA.⁴ The Board's authority over settlement agreements is limited to the statutes that are within the Board's jurisdiction as defined by the Secretary of Labor's Delegation of Authority. Our approval is limited to this case, and we understand the settlement terms relating to release of NTSSA claims as pertaining only to the facts and circumstances giving rise to this case.

The parties have certified that the Settlement Agreement and Release constitutes the entire agreement between Burke and PTM.⁵ Accordingly, we **APPROVE** the agreement and **DISMISS** the petition for review with prejudice.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

Responsibility to the Administrative Review Board), 75 Fed. Reg. 3924 (Jan. 15, 2010); 29 C.F.R. § 1982.110 (2011).

³ 29 C.F.R. § 1982.111(d)(2).

⁴ *See, e.g.*, Settlement Agreement and Release paras. 8, 10, 23.

⁵ Settlement Agreement and Release, para. 17.