



In the Matter of:

**ASSISTANT SECRETARY OF LABOR
FOR OCCUPATIONAL SAFETY AND
HEALTH,**

ARB CASE NO. 04-048

ALJ CASE NO. 02-STA-00037

PROSECUTING PARTY,

DATE: November 30, 2004

and

PRESCOTT B. SHAVE,

COMPLAINANT,

v.

**BRISCO BAILING CORPORATION, d/b/a
BROCKTON IRON AND STEEL COMPANY,
PAUL VENTURA and AL CASIELLO,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982 (STAA), 49 U.S.C.A. § 31105 (West 1997), and implementing regulations at 29 C.F.R. Part 1978 (2004). On July 31, 2003, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order approving a settlement agreement between the parties. On December 19, 2003, the Prosecuting Party moved to vacate the settlement agreement and the decision and order approving it on the grounds that the Respondent had not paid \$500.00 to the Complainant as required under the terms of the settlement agreement. On January 9, 2004, the ALJ issued an order vacating the July 31, 2003 decision and order approving the settlement agreement.

On January 14, 2004, the Prosecuting Party moved to withdraw its motion to vacate the settlement agreement stating that the Respondent had remitted the \$500.00 in satisfaction of the terms of the settlement agreement. In his January 16, 2004 Order Withdrawing Order Vacating Approval of Settlement Agreement, the ALJ granted the motion to withdraw the January 9, 2004 decision vacating the settlement agreement and reinstated the July 31, 2003 Decision and Order Approving Settlement Agreement and dismissed the complaint with prejudice.

Pursuant to 29 C.F.R. § 1978.109(c), the Administrative Review Board “shall issue the final decision and order based on the record and the decision and order of the administrative law judge.” January 23, 2004, the Board issued a Notice of Review and Order to Show Cause permitting either party to show cause why the Board should not approve the ALJ’s order. Neither party objected to the ALJ’s order.

The ARB has reviewed the record and concurs with the ALJ’s determination that the parties’ settlement agreement is fair, adequate and reasonable. The parties have agreed to settle Shave’s STAA claim. But we construe the settlement terms relating to release of STAA claims as pertaining only to the facts and circumstances giving rise to this case. Accordingly, we **APPROVE** the settlement agreement and subsequent order reinstating the settlement agreement and **DISMISS** the complaint.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge