



In the Matter of:

JAMES BOSANKO,

ARB CASE NO. 06-155

COMPLAINANT,

ALJ CASE NO. 2005-STA-0043

v.

DATE: January 31, 2007

**SOUTHERN REFRIGERATED
TRANSPORT, INC.,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT WITH PREJUDICE**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act (STAA) of 1982.¹ On September 30, 2005, the parties submitted a Settlement Agreement and Full and Final Release of All Claims signed by the Complainant, James Bosanko, and the Respondent, Southern Refrigerated Transport, Inc., (SRT) to a Department of Labor Administrative Law Judge (ALJ). Under the regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's preliminary findings "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ."² The regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be."³

¹ 49 U.S.C.A. § 31105 (West 2006).

² 29 C.F.R. § 1978.111(d)(2) (2006).

³ *Id.*

When the parties reached a settlement the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On September 18, 2006, the ALJ issued a Recommended Decision and Order Approving Settlement Agreement. According to the STAA's implementing regulations, the Administrative Review Board (ARB or Board) issues the final decision and order in this case.⁴

The Board issued a Notice of Review and Briefing Schedule apprising the parties of their right to submit briefs supporting or opposing the ALJ's recommended decision on October 3, 2006.⁵ Neither party responded to the Board's notice. We therefore deem settlement unopposed under the terms of the Recommended Decision and Order Approving Settlement Agreement.

Review of the agreement reveals that it may encompass the settlement of matters under laws other than the STAA⁶ and reference cases other than ARB No. 06-155, 2005-STA-0043, the case currently before the Board.⁷ The Board's authority over settlement agreements is limited to the statutes that are within the Board's jurisdiction as defined by the applicable statute. Furthermore, it is limited to cases over which we have jurisdiction. Therefore, we approve only the terms of the agreement pertaining to the Complainant's STAA claim ARB No. 06-155, 2005-STA-0043.⁸

In addition, the parties submitted an addendum to the settlement agreement entitled "Memorandum of Understanding" to the ALJ on August 31, 2006, dealing with the confidentiality paragraph of the settlement agreement. This memorandum is a satisfactory clarification of the original agreement. However, the Board notes that the parties' submissions, including the agreement, become part of the record of the case and are subject to the Freedom of Information Act. (FOIA)⁹ Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of such requests, and for protecting the interests of submitters of confidential commercial information.¹⁰

⁴ 29 C.F.R. § 1978.109(c)(2); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001).

⁵ 29 C.F.R. § 1978.109(c)(2).

⁶ Settlement Agreement and Full and Final Release of All Claims para. 2(B).

⁷ Settlement Agreement and Full and Final Release of All Claims paras.2(B), 3(D).

⁸ *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003).

⁹ 5 U.S.C.A. § 552 (West 2006).

The Board finds that the settlement is adequate and reasonable. Accordingly, with the reservations noted above limiting our approval to the settlement of Bosanko's STAA claim, we **APPROVE** the agreement and **DISMISS** the complaint with prejudice.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

DAVID G. DYE
Administrative Appeals Judge

¹⁰ 29 C.F.R. § 70 *et seq.* (2006).