



In the Matter of:

CHARLES MILLER,

ARB CASE NO. 09-039

COMPLAINANT,

ALJ CASE NO. 2008-STA-064

v.

DATE: June 2, 2009

AMERICAN BRIDGE,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

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

Charles Miller complained that American Bridge violated the employee protection provisions of the Surface Transportation Assistance Act of 1982 (STAA),¹ and its implementing regulations,² when it terminated his employment in retaliation for his complaining about driving in violation of Department of Transportation regulations. Following an investigation of this complaint, the Occupational Safety and Health Administration (OSHA) concluded that there was no reasonable cause to believe that

¹ 49 U.S.C.A. § 31105 (West 2008), as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53, 121 Stat. 266 (Aug. 3, 2007). Section 405 of the STAA provides protection from discrimination to employees who report violations of commercial motor vehicle safety rules or who refuse to operate a vehicle when such operation would violate those rules.

² 29 C.F.R. Part 1978 (2007).

American Bridge violated the STAA when it terminated Miller's employment. Accordingly, OSHA dismissed the complaint.

Miller objected to OSHA's findings and requested a hearing before a Department of Labor (DOL) Administrative Law Judge (ALJ).³ The ALJ assigned to the case scheduled a hearing, but before the hearing took place, the parties reached a settlement. The parties submitted the settlement agreement to the ALJ, and he issued an order recommending approval of the settlement agreement and dismissing the case on December 30, 2008.

The case is now before the Administrative Review Board (ARB) pursuant to the STAA's automatic review provisions.⁴ The ARB "shall issue the final decision and order based on the record and the decision and order of the administrative law judge."⁵

The ARB issued a Notice of Review and Briefing Schedule reminding the parties of their right to submit briefs in support of or in opposition to the ALJ's order. Neither party responded to the Board's notice.

Under the regulations implementing the STAA, the parties may settle a case at any time after filing objections to OSHA'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"⁶ Accordingly, we review the settlement to determine whether the settlement agreement constitutes a fair, adequate, and reasonable settlement of Miller's STAA complaint.

Initially we note that the settlement agreement may encompass the settlement of matters under laws other than the STAA.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 Miller's current STAA case.⁸

³ See 29 C.F.R. § 1978.105.

⁴ 49 U.S.C.A. § 31105(b)(2)(C); see 29 C.F.R. § 1978.109(c)(1).

⁵ 29 C.F.R. § 1978.109(c); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 2000-STA-050, slip op. at 2 (ARB Sept. 26, 2001).

⁶ 29 C.F.R. § 1978.111(d)(2).

⁷ General Release of Claims, para. 5.

⁸ *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 2000-STA-056, slip op. at 2 (ARB Apr. 30, 2003).

With this reservation limiting our approval to the settlement of Miller's STAA claim, we find the agreement to be a fair, adequate, and reasonable settlement of Miller's STAA complaint. Accordingly, we **APPROVE** the settlement and **DISMISS** the complaint with prejudice.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

WAYNE C. BEYER
Chief Administrative Appeals Judge