



**In the Matter of:**

**JOE OLIVER,**

**ARB CASE NO. 10-053**

**COMPLAINANT,**

**ALJ CASE NO. 2009-STA-069**

**v.**

**DATE: May 18, 2010**

**AMERITRANS, LLC,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

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

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

The Complainant, Joe Oliver, alleged that Ameritrans, LLC, violated the employee protection provisions of the Surface Transportation Assistance Act (STAA or Act) of 1982, as amended and re-codified, and its implementing regulations, when Ameritrans terminated his employment in retaliation for protected activities. 49 U.S.C.A. § 31105 (Thomson/West Supp. 2009); 29 C.F.R. Part 1978 (2009).

Following an investigation of the complaint, the Occupational Safety and Health Administration (OSHA) found that a preponderance of the evidence supported Ameritrans' position that Oliver's protected activity was not a contributing factor in his discharge and dismissed the complaint. OSHA Findings (Aug. 13, 2009).

Oliver objected to OSHA's findings and requested a hearing before a Department of Labor (DOL) Administrative Law Judge (ALJ). *See* 29 C.F.R. § 1978.105. The ALJ scheduled the case for hearing, but on December 15, 2009, Ameritrans submitted a General Release that was signed by Oliver and that released Ameritrans from liability under any cause of action related to his termination, specifically including his STAA claim. The parties also submitted an Agreement of Final Settlement and Release precluding any and all workers' compensation claims arising out of the incident at issue.

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 [ARB] . . . or the ALJ." 29 C.F.R. § 1978.111(d)(2). When the parties reached a settlement, the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement.

The ALJ issued a Recommended Decision and Order (R. D. & O.) dismissing the complaint, finding that the agreement constituted a fair, adequate, and reasonable settlement of the complaint and was in the public interest. R. D. & O. at 3.

The case is now before the ARB pursuant to the STAA's automatic review provisions. 49 U.S.C.A. § 31105(b)(2)(C); *see* 29 C.F.R. § 1978.109(c)(1). The ARB "shall issue a final decision and order based on the record and the decision and order of the administrative law judge." 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).

Although the ARB issued a Notice of Review and Briefing Schedule permitting each party to submit a brief in support of or in opposition to the ALJ's order, neither party submitted a brief. We therefore deem the settlement unopposed under its terms.

The ALJ found that the parties' settlement constitutes a fair, adequate, and reasonable resolution of Oliver's STAA complaint. 28 C.F.R. § 1978.111(d)(2); *see also Poulos v. Ambassador Fuel Oil Co.*, 1986-CAA-001 (Sec'y Nov. 2, 1987) in which the Secretary limited review of a settlement agreement to whether the terms of the settlement are a fair, adequate, and reasonable settlement of the complainant's allegations that the respondent violated the STAA.

As the ALJ observed, the settlement agreement encompasses the settlement of matters under laws other than the STAA, but 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. R. D. & O. at 2. Therefore, the ALJ properly approved only the terms of the agreement pertaining to Oliver's current STAA case. *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 2000-STA-056, slip op. at 2 (ARB Apr. 30, 2003).

We also note that, as the ALJ explained, while the General Release provides that the settlement terms will be confidential, the Release shall become part of the record, and therefore will be subject to the Freedom of Information Act (FOIA). 5 U.S.C.A. § 552 (West 2007).

We have carefully reviewed the parties' General Release and agree with the ALJ that it constitutes a fair, adequate, and reasonable settlement of Oliver's STAA complaint and is in the public interest. Accordingly, we **APPROVE** the agreement and **DISMISS** the complaint with prejudice.

**SO ORDERED.**

**PAUL M. IGASAKI**  
**Chief Administrative Appeals Judge**

**E. COOPER BROWN**  
**Deputy Chief Administrative Appeals Judge**