



LEE UHLEY,

ARB CASE NO. 12-082

COMPLAINANT,

ALJ CASE NO. 2011-STA-033

v.

DATE: November 22, 2013

WILLIAM F. BRAUN MILK HAULING,  
INC., ELIZABETH BRAUN, and  
JOHN DOE and MARY ROE,

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

*For the Complainant:*

Paul O. Taylor, Esq.; Burnsville, Minnesota

*For the Respondent:*

William A. Schmitt, Esq.; Greensfeld, Hemker & Gale, P.C.; Swansea, Illinois

Before: E. Cooper Brown, *Deputy Chief Administrative Appeals Judge*; Joanne Royce, *Administrative Appeals Judge*; and Lisa Wilson Edwards, *Administrative Appeals Judge*

#### NOTICE OF DISMISSAL AND CASE CLOSING

This case arises under the whistleblower protection provisions of the Surface Transportation Assistance Act of 1982 (STAA), as amended, 49 U.S.C.A. § 31105 (Thomson/West Supp. 2013) (STAA), and STAA's implementing regulations, 29 C.F.R. Part 1978 (2013). The parties cross-appealed a Decision and Order issued by a Department of Labor Administrative Law Judge on June 25, 2012. The Administrative Review Board (ARB) dismissed Complainant Uhley's appeal, ARB No. 12-085, on August 20, 2012, upon notice filed by his counsel withdrawing the appeal.

On October 21, 2013, the ARB issued an Order to Show Cause ordering Respondents William F. Braun Milk Hauling, Inc., *et al.*, petitioners in this appeal (ARB No. 12-082), to show cause no later than October 31, 2013, why the ARB should not dismiss their appeal because they failed to file an opening brief.<sup>1</sup> Respondents replied, advising the Board that they had previously requested that the Board withdraw their petition for review, by notice dated August 20, 2012, based on the settlement of the underlying claim. Pursuant to this Notice, Respondents withdrew their Petition for Review and requested dismissal of their appeal.

Based on the parties' respective and undisputed representations that this case has been settled, and because no party objects to dismissal and neither party contests the settlement, we will grant Respondents' motion requesting dismissal. We do so noting, however, that dismissal of this appeal is not to be interpreted as approval of the settlement reached by the parties nor do we otherwise condone the failure by both parties to submit the settlement to the Administrative Review Board for review and approval prior to respectively seeking dismissal.<sup>2</sup>

Accordingly, we **GRANT** Respondent's motion and **DISMISS** the appeal.

**SO ORDERED.**

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

**JOANNE ROYCE**  
**Administrative Appeals Judge**

**LISA WILSON EDWARDS**  
**Administrative Appeals Judge**

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<sup>1</sup> On July 13, 2012, the ARB issued a Notice of Appeal and Order Establishing Briefing Schedule in this case.

<sup>2</sup> Under the STAA's implementing regulations, 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 . . . or the ALJ." 29 C.F.R. § 1978.111(d)(2). Because the parties have not provided the Board with a copy of the settlement, the Board did not have the opportunity to determine whether the parties' settlement agreement constituted a fair, adequate, and reasonable settlement of Uhley's STAA complaint.