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Date: September 19, 2000

Case No.: **2000-LHC-0694**

OWCP No.: **2-124865**

In the matter of

**AMANDA A. MOORE (Widow of
KEVIN MOORE),**

Claimant,

v.

PROJECT DEVELOPERS,

Employer,

and

CIGNA INTERNATIONAL, INC.,

Carrier,

and

Director, OWCP.

Party-In-Interest.

DECISION AND ORDER APPROVING SETTLEMENT

This proceeding arises from a claim filed under the provision of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. 901 *et seq.* ("Act").

In a letter dated August 7, 2000, Employer's counsel informed the Court that the parties have resolved all issues and entered stipulations. The Employer's counsel submitted an executed Stipulation of Facts finalized on August 2, 2000. This document was signed by the Claimant, her counsel, and counsel for the Employer. The undersigned has reviewed and approved these Stipulations of Facts, and these are attached to this order.

The undersigned did note that while the agreement provided for a lump sum payment to the Claimant, Mrs. Moore was to pay attorney's fees from that amount, and the fees were not detailed. Claimant's

counsel later requested fees and expenses of \$46,064.00 from the \$350,000.00 lump sum payment.

At the behest of the undersigned on August 15, 2000, the Claimant signed a statement in which she agreed to pay counsel the full fees and costs. This statement is also attached to this order.

ORDER

1. The Employer shall pay all amounts as provided in the stipulations between the Claimant and the Employer.
2. The Employer shall receive credit for all compensation that has been paid.

RICHARD K. MALAMPHY
Administrative Law Judge

RKM/ccb
Newport News, Virginia

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION PROGRAMS

AMANDA MOORE, Widow Of
KEVIN MOORE, Deceased
12 Cookson Drive
Stafford, VA 22554,
Claimant

APPLICATION FOR SETTLEMENT
PURSUANT TO SECTION 8(i)

vs.

PROJECT DEVELOPERS, INC.
22930 Shaw Road
Suite A45
Sterling, VA 20166,
Employer

OWCP NO: 02-124865

and

CASE NO: 2000-LHC-0694

CIGNA
3 West
P.O. Box 15527
Wilmington, DE 19850,
Carrier

STIPULATION OF FACTS

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the claimant, counsel for defendant and with the express understanding and agreement of the claimant, Amanda Moore, widow of decedent, Kevin Moore, to whom this stipulation has been explained by her attorney as follows:

1. A claim for widow dependency benefits has been filed under procedures of the Defense Base Act, one of the extensions of the Longshore Harbor Workers' Compensation Act on behalf of Amanda Moore, widow of decedent, Kevin Moore, who died on December 17, 1998 in Moscow, Russia.

2. An LS-207, Notice of Controversion, was filed by the carrier on December 30, 1998, a copy of which is attached as Exhibit 1.

3. Claimant is at present represented by Mark L. Schaffer, Esquire and was previously represented by Stephen Bamberger, Esquire in connection with these proceedings.

4. At the time of his death on December 17, 1998 decedent, Kevin Moore, was employed by Project Developers, Inc. as an iron worker performing classified work at the United States Embassy in Moscow. A copy of the Russian Death Certificate and Report of Death of an American Citizen Abroad are attached as Exhibits 2 and 3. Decedent died from myocardioathy.

5. Decedent, Kevin Moore, was born on May 11, 1967 and was 32 years old at the time of his death.

6. Decedent married claimant, Amanda Preston Moore, on October 12, 1996 (Certificate of Marriage from the Commonwealth of Virginia attached as Exhibit 4).

7. Widow, Amanda Moore, was born on May 15, 1974 and is currently 25 years old. See attached Birth Certificate marked as Exhibit 5.

8. Decedent and wife, Amanda Moore, had no children.

9. At the time of his death the decedent's average weekly wage was \$824.82 per week, potential widow benefit being 50 0 of that or \$412.41 per week.

10. The parties agree that all of the claimant's rights against the employer and its carrier on account of the death of the decedent are covered by provisions of the Longshore Harbor Workers' Compensation Act and its extensions.

11. A controversy does in fact exist as to compensability of the death of Kevin Moore on December 17, 1998. There is issue regarding causal relationship of decedent's death and his employment and the circumstances of decedent's death in Moscow, Russia. Issue also exists regarding compensability under the zone of danger doctrine.

12. In an effort to resolve this matter and to avoid protracted formal proceedings, the parties are submitting this stipulation to the office of the Administrative Law Judge representing that the terms of settlement are not procured by duress and that the consideration is adequate to the claimant.

13. In return for settlement pursuant to Section 8(i) of all widow dependency compensation, medical expense and funeral expense to which the widow may be entitled, the employer/carrier agrees to pay claimant, Amanda Moore, a lump sum in the amount of \$350,000.00.

14. Claimant's attorney, Mark L. Schaffer, Esquire, will submit an attorney's fee application with a breakdown of his fee for legal services and his costs which shall include the fee request of claimant's previous attorney, Stephen A. Bamberger, Esquire. It is agreed that all counsel fee and costs whether from Mr. Schaffer or Mr. Bamberger will be payable out of the claimant's settlement amount, not in addition to it, and will represent a lien against compensation.

15. The parties believe that the settlement amount to the claimant is adequate consideration. Claimant has already received \$200,000.00 in life insurance payments secondary to death of her husband. Claimant also is employed and earns approximately \$42,000.00 per year.

16. It is agreed that the employer and its carrier retain full subrogation rights pursuant to Section 33 of the Act in the event that any third party claim or law suit is made arising out of decedent's death on December 18, 1998.

17. Accordingly, the parties ask the Administrative Law Judge to approve this stipulation in which they agreed to waiver formal hearing and to the entry of an Order under Section 8(i) of the Longshore Harbor Workers' Compensation Act and its extensions in final settlement of all claims which claimant may have against the employer and the carrier secondary to decedent's death on December 17, 1998.

Respectfully submitted,

/S/ AMANDA MOORE
Amanda Moore, Widow of
Kevin Moore, Deceased

/S/ MARK L. SCHAFFER, Esq.
Mark L. Schaffer, Esq.
Attorney for Claimant

SWARTZ, CAMPBELL & DETWEILER

DATED: 8/2/00

/S/ STEPHEN J. HARLEN, Esq.
Stephen J. Harlen, Esquire
Attorney for the Defendant,
Project Developers, Inc.