

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 06 September 2005

Case No.: 2005-SOX-00060

In the Matter of

GENEVE H. MCCOY
Complainant

v.

MERRILL LYNCH & COMPANY, INC.
Respondent

FINAL ORDER APPROVING SETTLEMENT

This proceeding arises from a complaint filed by Geneve H. McCoy against Merrill Lynch & Company, Inc. alleging violation of § 806 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A (the "SOX Act").

The parties have submitted an "Agreement and Release" (the "Agreement") that became fully executed on August 19, 2005, and resolves the SOX Act action. The parties request approval of the Agreement and that its terms and the letter submitting the Agreement be kept confidential pursuant to 29 C.F.R. § 70.26, pertaining to requests for confidential commercial information under the Freedom of Information Act, 5 U.S.C. § 552(b)(4).

Although the parties' settlement agreement contains provisions that relate to action by Complainant and Respondent under other statutes, I have no authority to approve such provisions and the instant order makes no determination regarding the propriety of these provisions.

Having reviewed the parties' Agreement with regard to the complaint under the SOX Act, I make the following findings:

1. The Agreement appears to be fair and reasonable on its face and to effectuate the purposes and policies of the SOX Act.
2. The parties are deemed to have waived any further proceedings before the U.S. Department of Labor regarding the matters which are the subject of their Agreement.
3. The instant order shall have the same force and effect as one made after a full hearing on the merits.

Based on the foregoing, and in accordance with the parties' Agreement, it is ORDERED that:

1. The Agreement is APPROVED.
2. The Agreement and the submittal letter, having been designated by the parties as confidential commercial information, shall be subject to restricted access pursuant to 29 C.F.R. § 18.56 and shall be treated in conformity to 29 C.F.R. § 70.26(c)-(g) in the event that a request is made for disclosure of those materials pursuant to the Freedom of Information Act.
3. The SOX Act complaint in this matter is DISMISSED with prejudice.

A

Robert D. Kaplan
Administrative Law Judge

Cherry Hill, New Jersey