



**Issue Date: 22 March 2010**

**CASE NO. 2010-AIR-00007**

*In the Matter of:*

**SEAN B. MASTERSON,**  
Complainant

V.

**OMNIFLIGHT HELICOPTERS, INC.,**  
Respondent

### **ORDER APPROVING SETTLEMENT**

This is a proceeding under the provisions of Section 519 of the Wendell H. Ford Aviation Investment and reform Act for the 21<sup>st</sup> Century ("Air 21" or "Act"), 49 U.S.C. §42121. The Complainant, Sean B. Masterson, a helicopter pilot, filed a complaint of discrimination with the Department of Labor against respondent, Omniflight Helicopters, Inc., a commercial air carrier. On March 22, 2010, the parties submitted a pleading styled "Agreement and General Release," which resolves all issues raised in the Complaint, for review and approval by the undersigned administrative law judge.

My review of the settlement agreement is limited to a determination of whether its terms are fair, adequate and reasonable. The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to the public interest.

Initially, I note that the parties are represented by counsel.

Section 6 of the settlement agreement provides that both parties will keep the existence and terms of the settlement agreement confidential, with certain specified exceptions. Because the Office of Administrative Law Judges is a government agency, and this is a public proceeding, the parties' submissions in the case, including the settlement agreement, become a part of the record in this case and are subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. §552 (1988). FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. *Gerald Fish v. H and R Transfer*, ARB No. 01-071; ALJ Case No. 00-STA-56 (ARB April 30, 2003).

The parties in this matter have indicated that the settlement agreement comprises and includes confidential information which may be exempt from disclosure under FOIA. The Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of requests and for protecting the interests of submitters of

confidential commercial information. See 29 C.F.R. §70.26. The settlement agreement in this case will be placed in a separate envelope and identified as being confidential commercial information pursuant to the parties' request. I further note that the parties have redacted the portion of Section 2 of the agreement which sets forth the financial consideration for the settlement. I was informed of the financial consideration of the settlement when the case was called for hearing on February 23, 2010.

After careful consideration of the settlement agreement, I find that none of the terms or conditions are unacceptable. Moreover, I find the terms of the agreement to be fair and reasonable and adequately protect Captain Masterson. Furthermore, I believe it is in the public interest to approve the agreement as a basis for administrative disposition of this case and I therefore approve the settlement agreement.

Accordingly, this case is **DISMISSED** with prejudice.

A

Russell D. Pulver  
Administrative Law Judge