



Issue Date: 23 December 2015

Case Nos.: 2015-AIR-00030
2015-AIR-00034

In the Matters of

SEAN BRAD MASTERSON
Complainant

v.

**HAHNEMANN HOSPITAL/MIDATLANTIC MEDEVAC
KEYSTONE MED-FLIGHT, LLC**
Respondents

**ORDER APPROVING SETTLEMENT, DISMISSING
CLAIM, SEALING SETTLEMENT DOCUMENTS, AND FILING
REDACTED SETTLEMENT DOCUMENTS**

This matter arises under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), which was signed into law on April 5, 2000. The Act includes a whistleblower protection provision, with a Department of Labor complaint procedure.¹ Implementing regulations are at 29 CFR Part 1979, published at 67 Fed. Reg. 15453 (Apr. 1, 2002).

This Tribunal issued the Notice of Hearing and Order of Consolidation in this matter on September 30, 2015, and the hearing was scheduled for February 29, 2016. Subsequently, by facsimile and letter dated December 14, 2015, the parties submitted a Settlement Agreement and Release. In paragraph 10 of the Settlement Agreement, the parties requested that paragraph 2 of the Agreement be designated confidential pursuant to 29 C.F.R. § 70.26(b). The parties submitted fully-executed copies of the Settlement Agreement and Release on December 18, 2015, signed in counterpart by each of the parties.

I find the proposed Settlement Agreement is proper, and I approve it with several caveats. First, language in the agreement purports to settle, release, or otherwise address claims or potential claims that far exceed the statute involved in this action. *See, e.g.*, paragraphs 3, which includes paragraph 3.a. through 3.f., and paragraph 4. I limit my review to the asserted whistleblower claims only, as anything beyond that limitation exceeds this Office's jurisdiction. Second, I order the original, unredacted settlement agreement to be sealed; moreover, the parties

¹ Pub. L. 106-181, tit. V, § 519(a), Apr. 5, 2000, 114 Stat. 145. *See* 49 U.S.C. § 42121.

are advised that the records of this Office are subject to the Freedom of Information Act (“FOIA”) and are generally public.

This Office will place the Settlement Agreement in a sealed envelope within the public file.² A copy of this Order will be affixed to this envelope. A redacted copy of the Settlement Agreement will be placed in the public file. Per 29 C.F.R. §18.85(b), I specifically find that paragraph 2, including subparagraphs 2.a. through 2.c., of the Settlement Agreement contains confidential commercial and financial information.

In the event that a request is made for access to the unredacted copy of the Settlement Agreement, the Department of Labor will provide the parties with pre-disclosure notification and an opportunity to respond before any disclosure is made. *See* 29 C.F.R. § 70.26. However, the parties are reminded that the pre-disclosure notice procedure does not, in any way, constitute a finding that the settlement agreement, or any portion thereof, will be exempt from disclosure under FOIA. Similarly, this procedure does not suggest that the appropriate disclosure officer would ultimately decline disclosure of the settlement agreement to the FOIA requester, if such a FOIA request were received. *See* 29 C.F.R. § 70.26(f).

Order

1. The parties’ Settlement Agreement and Release is GRANTED. The Settlement Agreement is hereby SEALED. A copy of the Settlement Agreement, with paragraph 2, including subparagraphs 2.a. through 2.c., redacted, will remain in the administrative file.
2. The proposed settlement agreement is fair and reasonable as to the claims under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century. None of the terms are against the public interest. The proposed settlement agreement is APPROVED, and the parties are ORDERED to comply with its terms.

This matter is DISMISSED with prejudice.

SO ORDERED.

SCOTT R. MORRIS
Administrative Law Judge

Cherry Hill, New Jersey

² *See* 29 C.F.R. § 18.56.