



Issue Date: 15 December 2015

Case No.: 2015-AIR-00031

In the Matter of

TERRENCE PETERMAN
Complainant

v.

VISION AIRLINES, INC.
Respondent

**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).

On November 4, 2015, Complainant advised that the parties reached a settlement in this matter, contingent upon finalization of terms and conditions. By Order issued November 9, 2015, this Tribunal stayed proceedings in this matter and directed the parties to submit a settlement agreement by January 8, 2016.²

By facsimile dated December 1, 2015, the parties submitted a Stipulation and Application for Settlement, and the Confidential Settlement Agreement and General Release. By Order issued December 2, 2015, I granted in part the parties' Joint Motion to File Settlement Agreement under Seal and directed the parties to show cause as to why the provisions of this settlement agreement, other than paragraph 2.1, which includes subparagraphs 2.1.(1) through 2.1.(3), should be sealed and not included as part of the public record. By facsimile dated December 7, 2015, the parties advised that they did not object to the December 2, 2015 Order.

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 4, 5 and 6. 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

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

² Settlements under AIR 21 require the approval of the administrative law judge. *See* 29 C.F.R. § 1979.111(d)(2).

agreement to be sealed per the parties' request; moreover, I have previously informed the parties, and now restate 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.³ 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 2.1 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' Stipulation and Application for Settlement is GRANTED. The Settlement Agreement is hereby SEALED. A copy of the Settlement Agreement, with paragraph 2.1, which includes subparagraphs 2.1.(1) through 2.1(3), 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. The hearing scheduled for April 18, 2016 is CANCELLED.

SO ORDERED.

SCOTT R. MORRIS
Administrative Law Judge

Cherry Hill, New Jersey

³ *See* 29 C.F.R. § 18.56.