



**Issue Date: 09 June 2017**

Case No.: 2017-AIR-00010

In the Matter of:

**VICTORIA HOLT**

Complainant

v.

**HARO MANGEMENT SERVICES, LLC. and  
HARCO AVIATION, LLC**

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.<sup>1</sup> Implementing regulations are at 29 CFR Part 1979, published at 67 Fed. Reg. 15453 (Apr. 1, 2002).

On June 7, 2017 by email, Respondent submitted the parties' Joint Motion for Approval of Settlement and to Dismiss with Prejudice and their Settlement Agreement and Release ("Settlement Agreement").

This Tribunal finds that the proposed Settlement Agreement is proper, and approves it with several caveats. First, language in this agreement purports to settle, release, or otherwise address claims or potential claims that far exceed the statute involved in this action. *See* Paragraphs D(6), D(15). The Tribunal limits its review to the asserted whistleblower claims only, as anything beyond that limitation exceeds this Tribunal's jurisdiction. Second, this Tribunal **ORDERS** Paragraph D(1)(including subparagraphs a-c) of the original unredacted

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

Settlement Agreement to be sealed per the parties' request. Moreover, the Tribunal has previously informed the parties, and now restates that the records of this Tribunal are subject to the Freedom of Information Act ("FOIA") and are generally available to the public. Third, language in this agreement mistakenly provides that "this Agreement shall be governed by and construed in accordance with the laws of the Texas." *See* Paragraph D(12). Per 49 U.S.C. § 42121(b)(6), as implemented by 29 C.F.R. § 1979.113, the jurisdiction for enforcement of the settlement agreement rests with the appropriate United States District Court in which the violation was found to have occurred, and not a court for the State of Texas. To the extent the settlement agreement may conflicts with the statute and regulation, it is unenforceable.

This Office will place the Settlement Agreement in a sealed envelope within the public file.<sup>2</sup> 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), this Tribunal specifically finds that Paragraph D(1)(including subparagraphs a-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' request to approve their "Settlement Agreement Release" is GRANTED. **However, the parties are advised that this Tribunal does not bind the parties to the provisions in paragraphs D(6), D(12), and D(15) that are either beyond its jurisdiction or authority to approve.** The unredacted Settlement Agreement is hereby SEALED. A copy of the redacted Settlement Agreement, Paragraph 1(including subparagraphs a-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. Except as noted above, the proposed "Settlement Agreement and Release" is APPROVED, and the parties are ORDERED to comply with its terms.

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<sup>2</sup> *See* 29 C.F.R. § 18.56.

This matter is DISMISSED with prejudice. The hearing in this matter is hereby CANCELLED.

SO ORDERED

**SCOTT R. MORRIS**  
Administrative Law Judge

Cherry Hill, New Jersey