

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 25 September 2017

Case No.: 2017-AIR-00017

In the Matter of:

KENNETH BENTLEY

Complainant

v.

PARAGON JETS, LLC

Respondent

ORDER APPROVING SETTLEMENT AND DISMISSING CLAIM

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 September 22, 2017 by email, Respondent submitted the parties' Confidential Negotiated Settlement Agreement and General 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 1(c), 1(f), 11(a), and, 11(e). The Tribunal limits its review to the asserted whistleblower claims only, as anything beyond that limitation exceeds this Tribunal's jurisdiction.

Second, language in the Settlement Agreement mistakenly provides that it shall be governed by the laws of the State of New Jersey and construed under either the law of the United States District Court for the District of New Jersey or the Civil Division of the New Jersey Superior Court, Bergen County. *See* Paragraph 7. Per 49 U.S.C. § 42121(b)(6), the appropriate United States District Court shall have jurisdiction, without regard to the citizenship of the

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

parties. To the extent Paragraph 7 is inconsistent with the statute, that paragraph is void and unenforceable. Jurisdiction rests solely with the United States District Court for the District of New Jersey.

Order

1. The parties' request to approve their "Negotiated Settlement Agreement and General Release" is GRANTED. **However, the parties are advised that this Tribunal does not bind the parties to the provisions in Paragraphs 1(c), 1(f), 11(a), 11(e), and 7 that are beyond its jurisdiction.**
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 "Negotiated Settlement Agreement and General Release" 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