

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 05 April 2019

CASE NO.: 2018-AIR-12

IN THE MATTER OF

ROMEO GARCIA

Complainant

v.

TRIUMPH AEROSTRUCTURES, LLC

Respondent

**ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING CASE**

This case arises under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21), 49 U.S.C. § 42121, which provides whistleblower protections to employees for engaging in certain protected activities. On April 3, 2019, the parties submitted a "Joint Motion for Approval of Settlement, Dismissal with Prejudice, and Confidential Treatment of the Settlement Agreement" and a signed **Confidential** Settlement Agreement and General Release ("Settlement Agreement"), which resolves all issues raised in the Complaint, for review and approval by the undersigned Administrative Law Judge.

Pursuant to Section 1979.111(d)(2) and (e) of the AIR 21 Act:

At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the administrative law judge if the case is before the judge, or by the Board if a timely petition for review has been filed with the Board. A copy of the

settlement shall be filed with the administrative law judge or the Board, as the case may be.

(e) Any settlement approved by the Assistant Secretary, the administrative law judge, or the Board, shall constitute the final order of the Secretary and may be enforced pursuant to § 1979.113.

Paragraph 16 of the Settlement Agreement provides that the Settlement Agreement shall be governed and construed under the laws of the State of Texas. This choice of law provision is construed as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States. See *Phillips v. Citizens Ass'n for Sound Energy*, No. 91-ERA-25, slip. op. (Nov. 4, 1991).

I have carefully reviewed the parties' settlement agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. My authority over settlement agreements is limited to the statutes that are within the jurisdiction of the Office of Administrative Law Judges as defined by the applicable statute. Accordingly, I approve only the terms of the agreement pertaining to Complainant's AIR 21 Case.

Paragraph 7 of the Settlement Agreement provides that both parties will keep the existence and terms of the Settlement Agreement confidential, with certain specified exceptions¹. In both the Settlement Agreement and Motion, the parties have stipulated to the confidential nature of the Settlement Agreement, recognizing that the Settlement Agreement is exempt from disclosure under FOIA pursuant to FOIA Exemptions 4 and 6, 5 U.S.C. §§ 552(b)(4) & (b)(6) (1988). Accordingly, to protect the parties from improper disclosure of this confidential information, to the furthest extent permitted by law, the Settlement Agreement will be sealed in a separate envelope and identified as being "**CONFIDENTIAL COMMERCIAL INFORMATION**," pursuant to 29 C.F.R. § 70.26(b). The sealed envelope will also be identified as being "**PERSONAL PRIVATE INFORMATION**," indicating that it may contain information exempt from FOIA pursuant to Exemption 6, 5 U.S.C. § 552(b)(6).

I note that the parties' submissions, including the Agreement, become part of the record of the case and are subject

¹ Paragraph 7.

to the Freedom of Information Act (FOIA), 5 U.S.C.A § 552 (West 2007). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.² Department of Labor regulations provide specific procedures for responding to FOIA requests and for appeals by requestors from denials of such requests.³

Accordingly, **IT IS HEREBY ORDERED** that the settlement agreement be approved and the instant complaint in Case No. 2018-AIR-12 be dismissed with prejudice.

ORDERED this 5th day of April, 2019, at Covington, Louisiana.

LEE J. ROMERO, JR.
Administrative Law Judge

² *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 1996-TSC-005-006.. slip op. @ 2 (ARB June 24, 1996); *Gerald Fish v. H and R Transfer*, ARB No. 01-071; ALJ Case No. 2000-STA-56 (ARB, April 30, 2003).

³ 29 C.F.R. § 70, *et seq.* (2007).