



**Issue Date: 04 April 2019**

Case No.: 2019-AIR-00005

In the Matter of:

**DANIEL GALLO**

Complainant

v.

**AIRCRAFT CHARTER SERVICES, INC.**

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. *See* 49 U.S.C. § 42121. Implementing regulations are at 29 C.F.R. Part 1979.

On April 3, 2019, the parties submitted a Joint Motion to Approve Settlement Agreement and to Dismiss Matter with Prejudice. The submission included a copy of the Settlement Agreement, along with a Joint Motion to File and Maintain Settlement Agreement Confidentially Under Seal.

This Tribunal finds that the proposed Settlement Agreement is proper, and approves it with several caveats. First, the 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* para. 5. The Tribunal limits its review to the asserted AIR 21 whistleblower claim only, as anything beyond that limitation exceeds this Tribunal’s jurisdiction.

Second, language in the Settlement Agreement provides that it shall be governed by the laws of the State of Indiana. *See* para. 18. Per 49 U.S.C. § 42121(b)(6), the appropriate United States District Court shall have jurisdiction, without regard to the citizenship of the parties, to enforce final orders issued under the Department of Labor’s complaint procedure. To the extent paragraph 18 is inconsistent with this statute, that paragraph is void and unenforceable.

Third, this Tribunal ORDERS paragraph 1 (including subparagraphs (a) through (c)) of the Settlement Agreement to be sealed. 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.

This Office will place the Settlement Agreement in a sealed envelope within the public file. 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 1 of the Settlement Agreement contains confidential commercial and financial information.

In the event that a FOIA 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’ requests to approve their Settlement Agreement and dismiss their AIR 21 claim are **GRANTED**. **However, the parties are advised that this Tribunal does not bind the parties to the provisions in the Settlement Agreement (para. 5) 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 Settlement Agreement is **APPROVED**, and the parties are **ORDERED** to comply with its terms.

This matter is **DISMISSED** with prejudice. The scheduled May 29-30, 2019 hearing in this matter is hereby **CANCELLED**.

SO ORDERED

**SCOTT R. MORRIS**  
Administrative Law Judge

Cherry Hill, NJ