



Issue Date: 24 November 2020

Case No.: 2020-AIR-00007
DOL No.: A5-1680-19-144

In the Matter of:

STEWART EKIN,
Complainant,

v.

ACCURATE METAL MACHINING, INC.,¹
Respondent.

**DECISION AND ORDER APPROVING THE SETTLEMENT AGREEMENT AND
DISMISSING THE COMPLAINT WITH PREJUDICE**

This matter arises under the employee protection provisions of Section 519 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. § 42121 (“the Act”), as implemented by 29 C.F.R. Part 1979.

On February, 18, 2020, the U.S. Department of Labor, Occupational Safety and Health Administration (“OSHA”), acting as agent for the Secretary of Labor (“Secretary”), issued its letter detailing the results of its investigation into Mr. Ekin’s complaint against Accurate Metal Machining, Inc. By letter dated March 12, 2020, Complainant objected to the Secretary’s findings and requested a de novo hearing before an administrative law judge pursuant to 29 C.F.R. § 1979.106. The matter was then assigned to me for adjudication. The parties resolved their dispute through mediation.

On November 17, 2020, I received parties’ *Joint Request for Approval of Settlement Agreement* and the *Confidential Settlement Agreement and General release of Claims* (hereinafter “Settlement Agreement”). The settlement agreement is signed by the Complainant and the President of Accurate Metal Machining, Inc.² The Settlement Agreement provides that

¹ The caption has been changed to properly reflect the spelling of the Respondent’s name.

² The parties have designated the Settlement Agreement as confidential. Consistent with 29 C.F.R. § 70.26 (2017) and Executive Order 12,600, “Predisclosure Notification Procedures for Confidential Commercial Information” (Exec. Or. 12,600, 52 Fed. Reg. 23781, 3 C.F.R., 1988 Comp., 235), the materials contained in the Settlement Agreement will be placed in a sealed envelope marked “Confidential Settlement Materials–Confidential Commercial Information. See 29 C.F.R. § 70.26.” In general, confidential commercial information will be disclosed under the Freedom of Information Act (“FOIA”) only in accordance with 29 C.F.R. § 70.26 and Executive Order 12,600. Pursuant to 29 C.F.R. § 70.26(a), a submitter of confidential commercial information must use good-faith efforts to designate any portions of its submission that it considers to be protected from disclosure under

Complainant releases the Respondent from claims arising under the Act as well as various other laws.³ This Decision and Order, however, is limited to whether the terms of the Settlement Agreement are a fair, adequate and reasonable settlement of Complainant's allegations that Respondent violated the Act.

Having reviewed the Settlement Agreement in full and noting that attorneys represent both parties, I find that the Settlement Agreement's terms are fair, adequate, reasonable, and consistent with public policy. Therefore, I hereby approve the Settlement Agreement. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits.

ORDER

Based on the foregoing, the Settlement Agreement is **APPROVED** and the complaint filed in this matter is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

LARRY S. MERCK
Administrative Law Judge

Exemption 4. The Department of Labor ("Department") will provide a submitter with prompt written notice of a FOIA request that seeks its confidential commercial information whenever required under 29 C.F.R. § 70.26(d), except as provided in 29 C.F.R. § 70.26(g), in order to give the submitter an opportunity to object in writing to disclosure of any specified portion of that information under paragraph 29 C.F.R. § 70.26(e).

³ As stated in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No.86-CAA-1, Sec. Order (Nov.2,1987), "the Secretary's authority over the settlement agreement is limited to such statutes as are within [the Secretary's] jurisdiction and is defined by the applicable statute." Consequently, my review of the Settlement Agreement is limited to determining whether its terms are a fair, adequate, and reasonable settlement of the Complainant's complaint under the Act.