



**Issue Date: 08 April 2020**

Case No.: 2020-AIR-00003

In the Matter of

**PATRICK MAJOR,**  
Complainant

v.

**AIR GATO ENTERPRISES, INC. and  
AIR AMBULANCE WORLDWIDE, LLC,**  
Respondents

**ORDER APPROVING JOINT CONFIDENTIAL SETTLEMENT AGREEMENT  
AND FILING UNDER SEAL**

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 C.F.R. Part 1979, published at 68 Fed. Reg. 14,107 (Mar. 1, 2003).

On April 3, 2020, Complaint and Respondents (collectively the “Parties”) submitted a Joint Motion to Approve Confidential Settlement Agreement Pursuant to 29 CFR 18.71 (“Agreement”). The submission includes a full copy of the executed Agreement, signed by the Parties. This Tribunal finds that the proposed Agreement is proper and approves it with some caveats.

This Agreement includes a provision for release of claims. *See* Paragraph 3. The provision sets forth that Complainant releases and forever discharges Respondents from “any and all claims, . . . including, but not limited to, any claims arising out of or in any way connected with Complainant’s employment.” Paragraph 3 of the Agreement however, is beyond this Tribunal’s jurisdiction. The Tribunal limits its review to the asserted whistleblower claims only, as anything beyond that limitation exceeds this Tribunal’s jurisdiction.

Also, per the Parties request, this Tribunal ORDERS that Paragraph 4 (a) of the Agreement be sealed.<sup>2</sup> The Tribunal previously informed the Parties and now restates that the

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

<sup>2</sup> Through email, the undersigned informed the Parties that the undersigned will redact the portions in paragraph 4(a) concerning the provisions about the settlement amount and how it is divided, and nothing further from the public records.

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 *unredacted* 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 Agreement will be placed in the public file. Per 29 C.F.R. §18.85(b), this Tribunal specifically finds that Paragraph 4(a) of the Agreement contains sensitive commercial or financial information and could result in a competitive disadvantage if disclosed, and that the parties would otherwise hold this information private within the ordinary course of business. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 915 (2019).

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 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

The proposed 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 Agreement is APPROVED, and the parties are ORDERED to comply with its terms. **However, the Parties are advised that this Tribunal does not bind them to the provisions in Paragraph 3 that are beyond its jurisdiction.**

The above matter is DISMISSED with prejudice.

SO ORDERED

**SCOTT R. MORRIS**  
Administrative Law Judge

Cherry Hill, New Jersey