



**Issue Date: 22 August 2014**

**Case Number: 2014-CAA-00003**

*In the Matter of*

**PHILLIP PETTY**  
**Complainant**

v.

**PANDL PROPERTIES INC.**  
**d/b/a KELLY'S LIMOUSINE**  
**Respondent**

**DECISION AND ORDER APPROVING SETTLEMENT**  
**AND DISMISSING COMPLAINT**

This case arises under the employee whistleblower protections of the Clean Air Act ("CAA"), 42 U.S.C. Section 7622 and was scheduled for hearing in Springfield, Illinois on September 24, 2014, which was subsequently cancelled upon notice that the parties "have agreed to settle the above-referenced matter."<sup>1</sup> On August 19, 2014, the parties submitted an executed confidential Release and Settlement Agreement for my review.<sup>2</sup>

The Settlement resolves the controversy arising from the complaint of Phillip Petty ("Complainant") against Pandl Properties, Inc., d/b/a Kelly's Limousine Service ("Respondent"). This Settlement is signed by Complainant, as well as the Respondent's president, Larry McPhail. The Settlement provides that Complainant will release Respondent from claims arising under the CAA as well as various other laws, to include a complaint filed in Illinois state court. This Order,

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<sup>1</sup> 29 C.F.R. § 24.111(d)(2) states that at any time after the filing of objections to the Assistant Secretary's findings and preliminary order, the case may be settled and, if the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 24.111(e).

<sup>2</sup> The parties have agreed that the terms of the settlement will be treated as confidential. The parties are afforded the right to request that information be treated as confidential commercial information where, as here, they are required to submit information involuntarily. 20 C.F.R. § 70.26(b) (2001). The DOL is then required to take steps to preserve the confidentiality of that information, and must provide the parties with predisclosure notification if a FOIA request is received seeking release of that information. Accordingly, the Settlement in this matter will be placed in an envelope marked "PREDISCLURE NOTIFICATION MATERIALS." Consequently, before any information in this file is disclosed pursuant to a FOIA request, the DOL is required to notify the parties to permit them to file any objections to disclosure. *See* 29 C.F.R. § 70.26 (2001). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Settlement.

however, is limited to whether the terms of the Settlement are a fair, adequate and reasonable settlement of Complainant's allegations that Respondent violated the CAA.<sup>3</sup>

The Settlement provides that Respondent shall make a payment to Complainant of the amount agreed upon. The parties represent that the compensation terms are fair and reasonable in relation to the claim. The Settlement also provides that Complainant will release any and all discrimination and retaliation claims against Respondent arising out of his employment with Respondent, and specifically that the present action shall be dismissed with prejudice, without costs to either party.

Having been advised of the settlement terms and having reviewed the Settlement, noting that the parties are represented by counsel, I find the terms of the Settlement to be fair, adequate, reasonable, and not contrary to public policy, and are therefore approved. Upon my approval, the parties shall implement the terms of the Settlement as stated in the Settlement. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits. Again, it is noted that my authority only extends to approving settlement of Complainant's claim against Respondent under the CAA.

Accordingly, **IT IS HEREBY ORDERED** that the Confidential Agreement and Release filed on August 19, 2014 is **APPROVED**, and thereby becomes the final order of the Secretary and may be enforced pursuant to 29 C.F.R. §24.111(e).

**IT FURTHER ORDERED** that the complaint filed in this matter is **DISMISSED WITH PREJUDICE**, and that counsel for Complainant is allowed to withdraw as counsel of record following completion of his professional duties necessary to implementing the Settlement on behalf of her client.

SO ORDERED:

STEPHEN R. HENLEY  
Administrative Law Judge

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<sup>3</sup> 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." I have therefore limited my review of the Settlement to determining whether the terms thereof are a fair, adequate and reasonable settlement of the Complainant's allegation that the Respondent had violated the CAA.