



Issue Date: 17 December 2019

Case No.: 2019-CER-00002

In the Matter of:

DAVID HENDY

Complainant

v.

HONEYWELL INTERNATIONAL, INC.

and

ARTECH INFORMATION SYSTEMS, LLC

Respondents

**ORDER APPROVING SETTLEMENT, DISMISSING COMPLAINT WITH
PREJUDICE, AND CANCELING HEARING**

The above-captioned matter arises from a complaint filed by David Hendy (“Complainant”) against Honeywell International Inc. and Artech Information Systems, LLC (“Respondents”) under the whistleblower provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9610 (“CERCLA”) and its implementing regulations at 29 C.F.R. Part 24, as well as Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes Oxley Act of 2002 (“SOX”), as amended, 18 U.S.C. § 1514A, and its implementing regulations at 29 C.F.R. Part 1980.

Complainant filed his complaint with the Occupational Safety and Health Administration (“OSHA”) on October 30, 2018. On January 23, 2019, after conducting an investigation, OSHA dismissed the complaint. By letter dated February 12, 2019, Complainant submitted his objection to OSHA’s dismissal of his complaint. Accordingly, this matter was referred to the Office of Administrative Law Judges (“OALJ”) and a Notice of Hearing and Pre-hearing Order was issued on November 1, 2019.

This office received a submission via facsimile from Complainant, dated December 13, 2019. In this submission, Complainant states that the parties have reached an agreement and that he intends to withdraw his complaint. The submission includes a confidential settlement agreement executed by Complainant and Respondents (“the Settlement Agreement”).¹ The

¹ Although the Settlement Agreement is “confidential,” it must be noted that the parties’ submissions, including this agreement become part of the record of the case and are subject to the Freedom of Information Act (“FOIA”). *See* 5

Settlement Agreement includes a general release of liability resolving Complainant's allegations against Respondents.

Under both CERCLA and SOX, at any time prior to a final decision and order, a complainant may withdraw his complaint. 29 C.F.R. §§ 24.111(c), 1980.111(c). Additionally, both acts permit the parties to enter into a mutually agreed upon settlement, the terms of which are subject to the approval of the Administrative Law Judge. 29 C.F.R. §§ 24.111(d)(2), 1980.111(d)(2).

Based on careful review, it is determined that the Settlement Agreement constitutes a fair, adequate, and reasonable settlement of the complaint. The Settlement Agreement is **APPROVED** and the complaint is **DISMISSED** with prejudice.² The hearing scheduled for February 3, 2020 is **CANCELED**.

SO ORDERED.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey

U.S.C. § 552; 29 C.F.R. Part 70. FOIA, and its implementing regulations, require Federal agencies to disclose requested documents unless those documents are excluded under FOIA.

² The Settlement Agreement broadly resolves all matters that may arise, including those under various Federal and state laws and regulations unrelated to CERCLA and SOX. However, the authority of the undersigned is limited to the statutes that are within the jurisdiction of OALJ, here CERCLA and SOX. Therefore, the Settlement Agreement has only been reviewed with regard to Complainant's claims under CERCLA and SOX and this Order only applies to those claims. *See e.g., Mann v. Schwan's Food Company*, ARB No. 09-017, ALJ No. 2008-STA-00027, slip op. at 4 (ARB Dec. 31, 2008)