



Issue Date: 10 August 2016

OALJ Case Nos.: 2016-ERA-00002
2016-ERA-00003

OSHA Case Nos.: 5-2700-14-006
5-2700-14-007

In the Matter of:

CHRIS MIKUSKO and
ROLAND RUBY,
Complainants,

v.

ENTERGY NUCLEAR OPERATIONS, INC.,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENTS

This matter arises under the “whistleblower” employee protection provisions of the Energy Reorganization Act of 1974 (“the Act”), 42 U.S.C. § 5851, and its implementing regulations found at 29 C.F.R. Part 24. Per 29 C.F.R. § 24.107(a), all proceedings must be held in a manner consistent with the procedural rules and evidentiary rules set forth in federal regulations at 29 C.F.R. Part 18.

By Order issued February 17, 2016, the above-captioned cases were continued until the conclusion of settlement proceedings. On July 18, 2016, the parties filed with this Court a *Joint Motion for Approval of Settlements, Dismissals with Prejudice, and Confidential Treatment of Settlement Agreements* (hereinafter “*Joint Motion*”), signed by the attorney for both Complainants and the attorney for Respondent. The *Joint Motion* requests (1) approval of the settlements; (2) dismissal of the Complainants’ complaints, with prejudice; and (3) designation of the parties’ Confidential Settlement Agreements and General Releases (hereinafter “*Settlement Agreements*”) as “Personal Private Information” and “Confidential Commercial and Financial Information,” pursuant to 29 C.F.R. § 70.26(b), to be kept in the record under separate seal. The *Joint Motion* is accompanied by the two *Settlement Agreements*, each signed by Respondent and one signed by each Complainant respectively. The record reveals that the parties jointly engaged in settlement negotiations through the Department of Labor Office of Administrative Law Judges’ Settlement Judge Program, and that each Complainant reached identical terms with Respondent, as set forth in the individual *Settlement Agreements*.

The Implementing Federal regulations at 29 C.F.R. § 24.111(d)(2) provide that “[a]t any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the judge, or the ARB if the ARB has accepted the case for review. A copy of the settlement must be filed with the administrative law judge or the ARB, as the case may be.”

After review of the *Settlement Agreements* and the administrative record, I find that the *Settlement Agreements* comply with the standards required under the Act and are approved.

ORDER

Accordingly, it is hereby **ORDERED** that:

1. The Settlement Agreement in Case No.: 2016-ERA-00002 is **APPROVED**;
2. The Settlement Agreement in Case No.: 2016-ERA-00003 is **APPROVED**;
3. The Complainants’ complaints are **DISMISSED WITH PREJUDICE**.
4. The Settlement Agreements in Case No.: 2016-ERA-00002 and Case No.: 2016-ERA-00003 are **CONFIDENTIAL**, and per the request of the parties in the Settlement Agreements are to be handled in a manner consistent with the restricted access provisions of 29 C.F.R. § 18.85(b), Privileged, Sensitive, or Classified Material, pre-disclosure notice requirements of 29 C.F.R. § 70.26, and Section III of the Settlement Agreements. The Settlement Agreements are designated “Personal Private Information” and “Confidential Commercial and Financial Information.”

LARRY S. MERCK
Administrative Law Judge