



Issue Date: 20 November 2018

OALJ Case No.: **2018-ERA-00008**  
OSHA Case No.: **4-2950-17-008**

*In the Matter of:*

**CHARLOTTE LANGLEY,**  
*Complainant,*

v.

**MISTRAS GROUP, INCORPORATED,**  
*Respondent.*

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

This matter arises under the “whistleblower” employee protection provisions of the Energy Reorganization Act of 1974, 42 U.S.C. § 5851, and its implementing regulations found at 29 C.F.R. Part 24. Pursuant to 29 C.F.R. Section 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.

**BACKGROUND**

By *Notice of Hearing and Pre-Hearing Order* issued on September 5, 2018, the above-captioned case is scheduled for a hearing to commence on January 8, 2019 in Tampa, Florida.

On November 6, 2018, counsel for Respondent filed *Respondent’s Motion for Extension & Continuance*.<sup>1</sup>

On November 14, 2018, the parties filed a *Confidential Settlement Agreement and General Release* (“*Settlement Agreement*”), signed by Complainant, proceeding *pro se*, and counsel for Respondent.

**DISCUSSION**

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

---

<sup>1</sup> Based on the parties’ filing of the *Confidential Settlement Agreement and General Release* and this instant Order, I find that Respondent’s *Motion for Extension & Continuance* is **MOOT**.

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.”

As to confidentiality, the parties are advised that notwithstanding the confidential nature of the *Settlement Agreement*, all of this filings, including the *Settlement Agreement*, are part of the record in this case and may be subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* The Administrative Review Board noted that:

If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine *at the time a request is made* whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.

*Seater v. S. Cal. Edison Co.*, ARB No. 97-072, ALJ No. 1995-ERA-00013 at 2 (ARB Mar. 27, 1997) (emphasis added).

Should disclosure be requested, the parties are entitled to pre-disclosure notification rights pursuant to 29 C.F.R. § 70.26.<sup>2</sup>

I have reviewed the *Settlement Agreement* and the Administrative Record, and I find that the *Settlement Agreement* complies with the standards required under the Act and is approved.

### **ORDER**<sup>3</sup>

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

1. The hearing set for January 8, 2019, in Tampa, Florida is **CANCELLED**;
2. The *Settlement Agreement* is **APPROVED**;

---

<sup>2</sup> “Pursuant to 29 C.F.R. § 70.26(b), submitters may designate specific information as confidential commercial information to be handled as provided in the regulations. When FOIA requests are received for such information, the Department of Labor will notify the submitter promptly, 29 C.F.R. § 70.26(c); the submitter will be given a reasonable amount of time to state its objections to disclosure, 29 C.F.R. § 70.26(e); and the submitter will be notified if a decision is made to disclose the information, 29 C.F.R. § 70.26(f). If the information is withheld and a suit is filed by the requester to compel disclosure, the submitter will be notified, 29 C.F.R. § 70.26(h).” *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 1996-TSC-00005, 1996-TSC-00006, slip op. at 2 n.2 (ARB June 24, 1996).

<sup>3</sup> It is noted that the *Settlement Agreement* encompasses the settlement of matters under laws other than the Energy Reorganization Act of 1974, 42 U.S.C. § 5851. *Settlement Agreement* at 5, 7, 18. The Court’s authority over settlement agreements is limited to such statutes as are within the Court’s jurisdiction and is defined by the applicable statute. Therefore, I may only approve terms of the agreement pertaining to Complainant’s claim pursuant to the Energy Reorganization Act of 1974, 42 U.S.C. § 5851

3. The *Settlement Agreement* shall be designated as confidential and maintained in a separate sealed envelope, subject to the procedures requiring disclosure under the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*; and
4. The Complainant's complaint is **DISMISSED WITH PREJUDICE.**

**LARRY S. MERCK**  
Administrative Law Judge