



Issue Date: 29 March 2017

Case No. 2016-FDA-00002

In the Matter of:
HAKEEM ABAYOMI,
Complainant,

v.

WALGREENS,
Respondent.

Appearances:

Arthur Ehrlich, *Esq.*
Goldman & Ehrlich
Chicago, IL
For the Complainant

Joseph Spitzzeri, *Esq.*
Johnson & Bell
Chicago, IL
For the Respondent

Before: John P. Sellers, III
Administrative Law Judge

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

This proceeding arises from a complaint filed by Hakeem Abayomi (“Complainant”) against Walgreens (“Respondent”) under the Section 402 of the FDA Food Safety Modernization Act, P.L. 111-353 (Jan. 4, 2011), codified at Federal, Food, Drug, and Cosmetic Act, 21 U.S.C. § 399d. On March 22, 2017, this Office received from counsel for the Respondent an executed Confidential Settlement Agreement, General Release and Waiver (Agreement) between the Complainant, Hakeem Abayomi and the Respondent, Walgreens, for my review.

In reviewing the Agreement, I must determine whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondent violated the FDA whistleblower provisions. Having been advised of the settlement terms and having

reviewed the Agreement,¹ and furthermore noting that the parties are represented by counsel, I find the terms of the Agreement to be fair, adequate, reasonable, and not contrary to public policy. Therefore, the Agreement is APPROVED pursuant to 29 C.F.R. § 1980.111(d)(2).

Upon my approval, the parties shall implement the terms of the Agreement as stated in the Agreement. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits. I note that my authority over this Agreement is limited to the statutes that are within my jurisdiction as defined by the applicable statute. Therefore, I approve only the terms of the Agreement pertaining to the Complainant's current FDA case.

Accordingly, **IT IS ORDERED** that the Agreement, General Release and Waiver filed on March 22, 2017, is **APPROVED**, and thereby becomes the final order of the Secretary and may be enforced pursuant to 29 C.F.R. §1982.113. The parties, furthermore, waive any further procedural steps before this forum, as well as any rights to challenge or contest the validity of this Order entered in accordance with the Agreement and General Release.

IT IS FURTHER ORDERED that the complaint filed in this matter is **DISMISSED WITH PREJUDICE**. The hearing scheduled for June 6, 2017 is **CANCELLED**.

JOHN P. SELLERS, III
Administrative Law Judges

¹ 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). Notwithstanding the parties' agreement, however, the parties' submissions, including the Agreement and General Release, become part of the record of the case and may be subject to disclosure under the Freedom of Information Act, 5 U.S.C. section 552, *et seq.* (FOIA). FOIA requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and copying under FOIA. Still, where, as here, the parties have requested confidentiality, the DOL is 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 a sealed envelope marked "PREDISCLOSURE NOTIFICATION MATERIALS." 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 Agreement.