



**Issue Date: 20 September 2018**

**CASE NO.: 2018-FDA-2**

**IN THE MATTER OF**

**MOHAMMAD M. JAHANZIRI**

**Complainant**

**v.**

**SPROUTS FARMERS MARKET**

**Respondent**

**ORDER APPROVING SETTLEMENT AGREEMENT  
AND DISMISSING CASE**

This proceeding arises pursuant to a complaint alleging violations under the employee protective provisions of Section 402 of the FDA Food Safety Modernization Act, Pub. Law 111-353 (Jan. 4, 2011), codified at 21 U.S.C. § 399d, and the procedural regulations found at 29 C.F.R. § 1987.100, et seq. (2015). The Secretary of Labor is empowered to investigate and determine "whistleblower" complaints filed by employees who are allegedly discharged or otherwise discriminated against by Employers with regard to their terms and conditions of employment for taking any action relating to the fulfillment of safety or other requirements established by the above Act.

On September 12, 2018, the parties filed a confidential settlement agreement with the undersigned for approval. Pursuant to 29 C.F.R. § 1978.111(d)(2), adjudicatory settlements may be processed... at 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 ALJ, or by the ARB if the ARB has accepted the case for review. A copy of the settlement will be filed with the ALJ or the ARB, as appropriate.

Settlements under the FDA Food Safety Modernization Act, like settlements in other whistleblower cases, cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest.

*Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec'y Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board as the case may be." Id.

I have carefully reviewed the parties' settlement agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. My authority over settlement agreements is limited to the statutes that are within the jurisdiction of the Office of Administrative Law Judges as defined by the applicable statute. Accordingly, I approve only the terms of the agreement pertaining to Complainant's FDA Case.

Finally, the Agreement provides that the parties shall keep the terms of the settlement confidential.<sup>1</sup> I note that the parties' submissions, including the Agreement, become part of the record of the case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C.A § 552 (West 2007). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.<sup>2</sup> Department of Labor regulations provide specific procedures for responding to FOIA requests and for appeals by requestors from denials of such requests.<sup>3</sup>

The hearing scheduled on November 19, 2018, is cancelled.

Accordingly, **IT IS HEREBY ORDERED** that the settlement agreement be approved and the instant complaint be dismissed with prejudice.

**ORDERED** this 20<sup>th</sup> day of September, 2018, at Covington, Louisiana.

LEE J. ROMERO, JR.  
Administrative Law Judge

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<sup>1</sup> Paragraph 5.

<sup>2</sup> *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 1996-TSC-005-006.. slip op. @ 2 (ARB June 24, 1996).

<sup>3</sup> 29 C.F.R. §70 *et seq.* 2007).