



Issue Date: 22 September 2014

Case No.: 2014-FRS-39

In the Matter of:

RODNEY J. SMITH,
Complainant,

v.

UNION PACIFIC RAILROAD CO.,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This case arises from a claim of whistleblower protection under the Federal Rail Safety Act (FRSA), as amended, 49 U.S.C. § 20109 (2011). The statute prohibits retaliatory or discriminatory actions by railroad carriers against their employees who engage in activity protected by the Act. On September 18, 2014, the parties submitted a “Joint Motion to Approve Settlement” and a “Settlement Agreement” resolving all issues raised in the Complaint for my review and approval.

My review of the Settlement Agreement is limited to a determination of whether its terms are fair, adequate and reasonable under the FRSA. *See Poulos v. Ambassador Fuel Oil Co.*, No. 91-ERA-25, slip op. at 2 (Sec’y of Labor, Nov. 4, 1991). The Settlement Agreement contains the terms of the parties’ agreement within the authority of the Secretary of Labor. The Settlement Agreement is part of a separate general release agreement releasing all other claims against the Respondent, the terms of which are confidential, and have not been disclosed to me. Thus my review is limited to the Settlement Agreement which has been presented for my review. The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to public interest. The terms of the Settlement Agreement are incorporated by reference into this Decision and Order.

After careful consideration of the Settlement Agreement, I find that the terms and conditions are acceptable. Moreover, I find the terms of the agreement to be fair, adequate, and reasonable under the FRSA, and that the terms adequately protect the Complainant, who is represented by counsel. Furthermore, I believe it is in the public interest to approve the Settlement Agreement as a basis for administrative disposition of this case, and I therefore approve the Settlement Agreement.

IT IS THEREFORE ORDERED that the Settlement Agreement submitted by the parties is **APPROVED**. In accordance with the terms of the settlement, upon signature of the

Settlement Agreement by the Complainant and counsel for the Respondent, the complaint is **DISMISSED WITH PREJUDICE**. In accordance with the regulations, the settlement constitutes the final order of the Secretary of Labor and may be enforced under 29 C.F.R. § 1982.113 (2013).

Alice M. Craft
Administrative Law Judge