



**Issue Date: 08 August 2019**

**CASE NO.: 2019-FRS-58**

**IN THE MATTER OF**

**STEAPHAN GRIFFIN**

Complainant

**v.**

**ALABAMA GULF COAST RAILWAY**

Respondent

### **DECISION AND ORDER APPROVING SETTLEMENT**

This matter arises under the whistleblower protections of the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended, and the implementing regulations found at 29 C.F.R. Part 1982. Both Complainant and Respondent are represented by attorneys. The matter is currently set for hearing. However, the parties have submitted a Settlement and Release of All Claims (“Settlement Agreement”) resolving all issues pending for hearing in this matter.

Regulations provide that a case may be settled at any time after the filing of objections to the Assistant Secretary’s findings if the participating parties agree to a settlement and the settlement is approved by the administrative law judge. 29 C.F.R. § 1982.111(d)(2). Any settlement approved by the administrative law judge will constitute the final order of the Secretary and may be enforced in U.S. District Court. 29 C.F.R. § 1982.111(e).

My authority over settlement agreements is limited to the statutes that are within my jurisdiction, and I have restricted my review of the Settlement Agreement to ascertaining whether its terms fairly, adequately, and reasonably settle this FRSA case. *See Mann v. Schwan’s Food Company*, ARB No. 09-017, ALJ No. 2008- STA-00027, slip op. at 3 (ARB Dec. 31, 2008). Accordingly, my approval extends only to the terms of the Settlement Agreement pertaining to Complainant’s FRSA case.

The Settlement Agreement includes a confidentiality provision. The files maintained by this Office, including this Settlement Agreement, are subject to disclosure under the provisions of the Freedom of Information Act (“FOIA”), unless an exemption applies. *See 5 U.S.C. § 552; Johnson v. U.S. Bancorp*, ARB No. 13-014, 13-046, ALJ No. 2010-SOX-00037, slip op. at 3

(ARB July 22, 2013). The Department of Labor has implemented regulations that govern the FOIA process, and exemptions will be determined at the time of the request, not at the time of the filing of the agreement. *See* 29 C.F.R. Part 70; *McDowell v. Doyon Drilling Servs., Ltd.*, ARB No. 97-053, ALJ NO. 96-TSC-00008, slip op. at 2 (ARB May 19, 1997).

As construed, and after carefully considering the terms of the Settlement Agreement, I find that the terms and conditions appear to be fair, adequate, and reasonable. I further find that the Settlement Agreement is not contrary to the public interest. *See Carciero v. Sodexo Alliance, SA*, ARB No. 09-067, ALJ No. 2008-SOX-012, slip op. at 3 (ARB Sept. 30, 2010).

### **ORDER**

Accordingly, IT IS HEREBY ORDERED that:

1. The terms and conditions of the Settlement Agreement are incorporated by reference into this Decision and Order and are hereby APPROVED. The parties are ordered to carry out the provisions of the Settlement Agreement.
2. The parties having resolved all the issues pending for hearing, the matter is now fully concluded. The hearing set for November 26, 2019, is CANCELED.
3. The above-referenced complaint is DISMISSED WITH PREJUDICE.

J. ALICK HENDERSON  
Administrative Law Judge