

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 21 May 2008**

Case No. 2008-SOX-11

In the Matter of:

RICHARD BRADLEY GROSS,

Complainant,

v.

UNITED PARCEL SERVICE AIRLINE,

Respondent.

**ORDER APPROVING SETTLEMENT AND DISMISSING CASE**  
**AND**  
**ORDER CANCELING HEARING**

This matter arises under the employee protection provisions of Title VIII of the Sarbanes Oxley Act of 2002 (SOX), § 806 of the Corporate and Criminal Fraud Accountability Act of 2002 (CCFA), 18 U.S.C. § 1514A and the implementing regulations at 29 C.F.R. Part 1980. A hearing is currently scheduled to commence on July 22, 2008, in Louisville, Kentucky.

On May 19, 2008, the parties filed a Separation Agreement and General Release. Twenty-nine C.F.R. § 1980.111(d)(2) provides in pertinent part:

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 administrative law judge if the case is before the judge. . . . A copy of the settlement will be filed with the administrative law judge. . . .

A settlement approved by the administrative law judge shall constitute the final order of the Secretary and may be enforced pursuant to 29 C.F.R. § 1980.113.

I have carefully reviewed the terms of the Agreement and find the Settlement Agreement is fair, adequate, and voluntary as it relates to the SOX case. However, it encompasses settlement terms addressing matters arising under state law and other federal statutes. My authority extends only to approving matters properly before the Office of Administrative Law Judges, i.e., the SOX case.

Additionally, the Agreement provides that the parties shall keep the terms of the settlement confidential, with certain specified exceptions. I emphasize that "[t]he 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. FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act." *Coffman v. Alyeska Pipeline Serv. Co. and Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 96-TSC-5, 6, slip op. at 2 (ARB June 24, 1996). Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of such request, and for protecting the interests of submitters of confidential commercial information. See 29 C.F.R. Part 70.

#### **ORDER**

The Settlement Agreement is **APPROVED**. The Complaint is **DISMISSED** with **PREJUDICE** and the hearing scheduled for July 22, 2008, is **CANCELLED**.

**A**

LARRY S. MERCK  
Administrative Law Judge