



Issue Date: 01 March 2011

Case No.: 2010-SOX-00057

In the Matter of:

DAVID DEAL,

Complainant

v.

FREEMPORT-MCMORAN COPPER & GOLD INC.,

Respondent

Appearances:

Scot G. Dollinger
Dollinger Law Firm
Houston, Texas
For the Complainant

David K. Theard
Jones, Walker, Waechter, Poitevent, Carrère & Denègre L.L.P.
New Orleans, Louisiana
For the Respondent

Before:

Larry W. Price
Administrative Law Judge

**FINAL DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING CASE WITH PREJUDICE**

This matter arose when Complainant, David Deal, filed a complaint under the whistleblower protection provisions of the Sarbanes-Oxley Act of 2002 (SOX).¹ On February 28, 2011, the parties filed a fully executed settlement agreement dated February 25, 2011, for review and approval. The agreement includes a provision certifying that it represents the sole and entire agreement between the parties with respect to the subject matter of the agreement.

¹ 18 U.S.C. § 1514A. The SOX regulations are found at Title 29, Part 1980 of the Code of Federal Regulations (C.F.R.).

A case arising under SOX may be settled if the participating parties agree to a settlement and provide the presiding administrative law judge with a copy of the settlement for review and approval.²

Upon review of the agreement, I find that it is fair, adequate, reasonable, and in the public interest.

The parties' submissions during the course of a Department of Labor SOX hearing, including the instant settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act (FOIA).³ FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under SOX.⁴ The Department of Labor regulations provide specific procedures for responding to FOIA requests and for appeals by requestors from denials of such requests.⁵

Finally, I construe the provision of the agreement stating that it "is to be interpreted pursuant to the laws of Louisiana" as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States.⁶

Accordingly, with the reservations noted above, I **APPROVE** the agreement and **DISMISS** the complaint with prejudice. Pursuant to 29 C.F.R. § 1980.111(e), this order constitutes the final order of the Secretary of Labor.

SO ORDERED.

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LARRY W. PRICE
Administrative Law Judge

² 29 C.F.R. § 1980.111(d)(2).

³ 5 U.S.C. § 552.

⁴ *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 1996-TSC-005, -006, slip op. at 2 (ARB June 24, 1996).

⁵ 29 C.F.R. § 70.

⁶ *Phillips v. Citizens' Ass'n for Sound Energy*, 1991-ERA-025, slip op. at 2 (Sec'y Nov. 4, 1991).