



Issue Date: 31 March 2011

Case No.: **2010-SOX-00056**

In the matter of

PETER J. POULOS,
Complainant,

v.

**SUMMIT HOTEL PROPERTIES, ET AL.,
KERRY BOEKELHEIDE, LORI RICHARDS, TRENT PETERSON,
STEPHANIE ROMIC, JANIS MOELLER,**
Respondents,

**DECISION AND ORDER APPROVING SETTLEMENT and
DISMISSING COMPLAINT WITH PREJUDICE**

This case arises under the Corporate and Criminal Fraud and Accountability Act, Title VII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A, *et seq.* and its implementing regulations, 29 C.F.R. Part 1980 (“SOX”), which provides whistleblower protections to certain employees for engaging in certain protected activities. 42 U.S.C. § 5851. On March 15, 2011, the parties submitted a “Joint Motion to Dismiss All Claims with Prejudice Based on Settlement Agreement, which resolves all issues raised in the Complaint, for review and approval by the undersigned administrative law judge. The Motion and attached Settlement Agreement are incorporated herein by reference.

My review of the settlement agreement is limited to a determination of whether its terms are fair, adequate and reasonable. The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to the public interest.

Section 6.1 of the settlement agreement provide that Complainant will keep the existence and terms of the settlement agreement confidential, with certain specified exceptions.

Because the Office of Administrative Law Judges is a government agency, and this is a public proceeding, the parties’ submissions in the case, including the settlement agreement, become a part of the record in this case and are subject to the Freedom of Information Act (“FOIA”), 5 U.S.C. §552 (1988). FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. *Gerald Fish v. H and R Transfer*, ARB No. 01-071; ALJ Case No. 00-STA-56 (ARB April 30, 2003).

The undersigned would note that the agreement mentions an action in a United States District Court in South Dakota. Resolution of that case is not mentioned in the proposed settlement agreement.

After careful consideration of the settlement agreement, I find that none of the terms or conditions are unacceptable. Moreover, I find the terms of the agreement to be fair and reasonable and adequately protect the Complainant. Furthermore, I believe it is in the public interest to approve the agreement as a basis for administrative disposition of this case and I therefore approve the settlement agreement.

Accordingly, this case is **DISMISSED** with prejudice.

A

RICHARD K. MALAMPHY
Administrative Law Judge

RKM/ccb
Newport News, Virginia