



ISSUE DATE: 09 AUGUST 2011

CASE NO.: 2011-SOX-00016

In the Matter of:

LUIS ARMANDO MIRANDE
Complainant,

v.

TYSON FOODS, JOSE ARANA-ESCOBAR,
JAMES YOUNG,
Respondents.

**ORDER APPROVING SETTLEMENT AGREEMENT AND
DISMISSING COMPLAINT WITH PREJUDICE**

On August 1, 2011, the parties submitted for my review and approval, a "Confidential Settlement Agreement and Mutual Release of All Claims" ("Agreement") which resolves all issues raised in the Complaint along with a request that the Agreement be filed under seal as it contains commercial and financial information that is privileged and confidential and that the parties be provided timely notice and an opportunity to object in the event that a request is made under the Freedom of Information Act to disclose the Agreement.

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. Initially, I note that the parties are represented by counsel.

After careful consideration of the settlement agreement, I find that none of the terms or conditions is unacceptable. Moreover, I find the terms of the agreement to be fair and reasonable and adequately protect Mr. Mirande. 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.

Section 8 of the settlement agreement provides that both parties will keep the existence and terms of the settlement agreement confidential, with certain specified exceptions and the parties request that it be filed under seal. 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 parties in this matter have indicated that the settlement agreement comprises and includes confidential information which may be exempt from disclosure under FOIA. The Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of requests and for protecting the interests of submitters of confidential commercial information. See 29 C.F.R. §70.26. The settlement agreement in this case will be placed in a separate envelope and identified as being confidential commercial information pursuant to the parties' request.

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

So Ordered.

A

William Dorsey
ADMINISTRATIVE LAW JUDGE

San Francisco, California