

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 16 January 2014

ALJ NO.: 2011-SOX-00027

KENNETH POLI
Complainant

v.

JACOBS ENGINEERING GROUP, INC.,
Respondent

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

This proceeding arises from a complaint of discrimination filed by Kenneth Poli (“Poli” or the “Complainant”) against Jacobs Engineering Group Inc. under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of The Sarbanes-Oxley Act of 2002 (“SOX”), 18 U.S.C.A. § 1514A (West 2004) and the procedural regulations found at 29 C.F.R. Part 1980 (2004). On January 10, 2014, the parties filed a document entitled “Settlement Agreement, Accord and Satisfaction, Full and General Release of All Claims, and Covenant Not to Sue” (“Settlement Agreement”). In reviewing the Settlement Agreement, I must determine whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondent violated the SOX whistleblower provisions. I find that the Settlement Agreement complies with the standard required and it is APPROVED pursuant to 29 C.F.R. § 1980.111(d)(2).

With regard to confidentiality of the Settlement Agreement, the parties are advised that notwithstanding the confidential nature of the Settlement Agreement, all of their filings, including the Settlement Agreement, are part of the record in this case and may be subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C.A. § 552 *et seq.* The Administrative Review Board has noted that:

If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine *at the time a request is made* whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.

Seater v. S. Cal. Edison Co., ARB No. 97-072, ALJ No. 1995-ERA-00013 at 2 (ARB March 27, 1997) (emphasis added). Should disclosure be requested, the parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

I note the parties choose New York law to control any dispute between them concerning the Agreement. *See* ¶ 13. As I construe this provision, it is not intended to and does not limit the authority of any federal court or the Secretary of Labor. It is an agreement between the parties, limited in its application to themselves. For the federal courts and the Secretary, the law and regulations of the United States control.¹

In reviewing the Settlement Agreement, I also note that my authority over settlement agreements is limited to the statutes that are within my jurisdiction as defined by the applicable statute. Therefore, I approve only the terms of the Agreement pertaining to Poli's current SOX case, 2011-SOX-00027. *Anderson v. Schering Corp.*, ARB No. 10-070, ALJ No. 2010-SOX-7 (ARB Jan. 31, 2011).

Accordingly, it is **ORDERED** that:

- (1) The Settlement Agreement is **APPROVED**;
- (2) The Settlement Agreement shall be designated as confidential subject to the procedures requiring disclosure under FOIA; and
- (3) The Complaint of Kenneth Poli is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

COLLEEN A. GERAGHTY
Administrative Law Judge

Boston, Massachusetts

¹ *See Hildebrand v. H. H. Williams Trucking, LLC*, ARB No. 11-030, ALJ No. 2010-STA-056, slip op. at 3 (ARB Sept. 26, 2011).