

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

Issue Date: 10 September 2012

ALJ NO.: 2012-SOX-00029

IVYS MALDONADO
Complainant

v.

STARENT NETWORKS,
Respondent

Before: Jonathan C. Calianos, Administrative Law Judge

Appearances:

Scott A. Lathrop, Esq., Townsend, Massachusetts, for the Complainant

Gregory C. Keating, Esq. (Littler Mendelson, P.C.), Boston, Massachusetts, for the Respondent

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

This proceeding arises from a complaint of discrimination filed by Ivys Maldonado (“Maldonado” or the “Complainant”) against Starent Networks 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). The formal hearing was set for August 7, 2012 in Boston, Massachusetts and was continued generally when the parties informed my office that they had reached a settlement. On September 5, 2012, the parties filed an Amended Settlement Agreement & General Release and Waiver of All Claims (“Settlement Agreement”). On

September 10, 2012, I held a telephonic hearing on-the-record to discuss the terms and conditions of the parties' 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., USDOL/OALJ Reporter (PDF), 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.

In reviewing the Settlement Agreement, I 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 Maldonado's current SOX case, 2012-SOX-00029. *Anderson v. Schering Corp.*, ARB No. 10-070, ALJ No. 2010-SOX-7 (ARB Jan. 31, 2011).

Accordingly, it is **ORDERED** that:

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

SO ORDERED.

JONATHAN C. CALIANOS
Administrative Law Judge

Boston, Massachusetts