



Issue Date: 15 January 2015

Case No. 2014-SOX-13

In the Matter of:
JOSEPH W. KREMER,
Complainant,

v.

FIFTH THIRD BANCORP. ET AL.
Respondent.

**DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

This proceeding arises from a complaint of discrimination filed by Joseph W. Kremer (“Complainant”) against Fifth Third Bancorp (“Respondent”) 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 6, 2015, this Office received from counsel for the Complainant a fully executed Agreement and General Release (Agreement) between the Complainant, Joseph W. Kremer, and the Respondent, Fifth Third Bancorp, for my review.

In reviewing the 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. Having been advised of the settlement terms and having reviewed the Agreement,¹ and furthermore noting that the parties are represented by counsel, I

¹ The parties have agreed that the terms of the settlement will be treated as confidential. The parties are afforded the right to request that information be treated as confidential commercial information where, as here, they are required to submit information involuntarily. 20 C.F.R. § 70.26(b) (2001). Notwithstanding the parties’ agreement, however, the parties’ submissions, including the Agreement and General Release, become part of the record of the case and may be subject to disclosure under the Freedom of Information Act, 5 U.S.C. section 552, *et seq.* (FOIA). FOIA requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and copying under FOIA. Still, where, as here, the parties have requested confidentiality, the DOL is required to take steps to preserve the confidentiality of that information, and must provide the parties with predisclosure notification if a FOIA request is received seeking release of that information. Accordingly, the Settlement in this matter will be placed in a sealed envelope marked “PREDISCLURE NOTIFICATION MATERIALS.” Before any information in this file is disclosed pursuant to a FOIA request, the DOL is required to notify the parties to permit them to file any objections to disclosure. *See* 29 C.F.R. § 70.26 (2001). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Agreement.

find the terms of the Agreement to be fair, adequate, reasonable, and not contrary to public policy. Therefore, the Agreement is APPROVED pursuant to 29 C.F.R. § 1980.111(d)(2).

Upon my approval, the parties shall implement the terms of the Agreement as stated in the Agreement. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits. I note that my authority over this Agreement 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 the Complainant's current SOX case.

Accordingly, **IT IS ORDERED** that the Agreement and General Release filed on January 6, 2015, is **APPROVED**, and thereby becomes the final order of the Secretary and may be enforced pursuant to 29 C.F.R. §1982.113. The parties, furthermore, waive any further procedural steps before this forum, as well as any rights to challenge or contest the validity of this Order entered in accordance with the Agreement and General Release.

IT FURTHER ORDERED that the complaint filed in this matter is **DISMISSED WITH PREJUDICE**, and that counsel for the Complainant is allowed to withdraw as counsel of record following completion of his professional duties necessary to implementing the Agreement on behalf of his client.

SO ORDERED.

JOHN P. SELLERS, III
Administrative Law Judge