



Issue Date: 23 June 2016

Case No.: 2015-SOX-00032

In the Matter of:

JAMES JACKSON,

Complainant,

v.

BHI ENERGY | POWER SERVICES, LLC,

Respondent.

ORDER APPROVING SETTLEMENT AGREEMENT; DISMISSAL

This case arises under the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, as amended (“SOX”), 18 U.S.C.A. § 1514A, and its implementing regulations found at 29 CFR Part 1980. On June 14, 2016, the parties submitted a settlement agreement for review. Upon review of the settlement agreement, I find that its terms are fair, adequate, and reasonable, and do not contravene the public interest.

The settlement appears to be a global settlement purporting to dispose of claims in addition to the claim brought under the SOX. My authority to approve the settlement agreement is limited to matters that are before me – that is, to approve the settlement agreement only insofar as it resolves Mr. Jackson’s complaints under the SOX. My approval should not be construed as approving the resolution of any claims brought under any other federal statute or under state law. This reservation is not intended to address the effectiveness of the settlement with respect to other claims, and the parties are not precluded from raising the settlement agreement in the course of other proceedings, if any arise.

I construe paragraph 12, stating that the agreement “shall in all respects be interpreted, enforced, and governed under the laws of the Commonwealth of Massachusetts,” as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States.

The parties agree that the settlement agreement should be kept confidential. The Freedom of Information Act, 5 U.S.C. § 552, *et seq.* (1988) (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 the Freedom of Information Act. However, the employer will be provided a pre-disclosure notification giving the employer the opportunity to challenge any such potential disclosure. In the event the Agreement is disclosed pursuant to FOIA, such disclosure is not a violation of the agreement and will not result in a violation of the agreement.

Accordingly, with the reservations noted above and limiting my approval to the complaints brought under SOX, **IT IS ORDERED:**

1. The settlement agreement between the parties submitted on June 14, 2016, is **APPROVED**; and
2. This matter is **DISMISSED** with prejudice.

SO ORDERED.

MONICA MARKLEY
Administrative Law Judge

MM/mc
Newport News, Virginia