



Issue Date: 13 January 2016

OALJ No.: 2016-SOX-00007
OSHA No.: 2-4173-13-097

In the Matter of:

TODD LENART

Complainant,

v.

COACH, INC.

Respondent.

FINAL DECISION AND ORDER APPROVING SETTLEMENT

The above-captioned matter arises from a complaint filed by Todd Lenart (“Complainant”) against Coach, Inc. (“Respondent”) under Section 806 (i.e., the employee protection provision) of the Sarbanes-Oxley Act of 2002, as amended (“SOX” or “the Act”), 18 U.S.C. §1514A, and its implementing regulations found at 29 C.F.R. Part 1980 and Part 18, Subpart A. Section 806 provides “whistleblower” protection to employees of publicly traded companies against discrimination by employers in the terms and conditions of employment because of certain “protected activity” by the employee. A hearing has been scheduled for Thursday, May 19, 2016.

By letter dated January 12, 2016, the parties submitted their Confidential Negotiated Settlement Agreement And General Release (“Settlement Agreement”) along with their Joint Motion for Approval of Confidential Negotiated Settlement Agreement and Dismissal of the Complaint and their Joint Letter Memorandum of Law.

The SOX regulations address settlements. Specifically, 29 C.F.R. §1980.11 1(d)(2) states the following:

At any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the administrative law judge if the case is before the judge... A copy of the settlement will be filed with the administrative law judge[.]

A settlement approved by the administrative law judge shall constitute the final order of the Secretary and may be enforced [in Federal District Court] pursuant to Section 1980.113. *See* 29 C.F.R. § 1980.111(e).

Complainant and Respondent were ably represented by counsel. The provisions of the Settlement Agreement are fair, adequate and not contrary to the public interest. Further, the Settlement Agreement supports a finding that the complaint be dismissed with prejudice. Approval of the Settlement Agreement is therefore appropriate.¹ This Decision and Order shall have the same force and effect as one made after a full hearing on the merits.

The parties' joint request that the specific terms of the Settlement Agreement be sealed and designated as "confidential business information" is **GRANTED**. Nonetheless, the parties' submissions, including the Settlement Agreement, will become part of the record of the case and are subject to the Freedom of Information Act ("FOIA"). *See* 5 U.S.C. § 552(a). If a FOIA request is made for the Settlement Agreement, the Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption. Because the Settlement Agreement has been designated as confidential business information, the parties will be entitled to pre-disclosure notifications rights under 29 C.F.R. § 70.26.

Based on the foregoing, the Settlement Agreement is **APPROVED** and that the parties' Joint Motion for Dismissal of the Complaint is **GRANTED**. The complaint is dismissed with prejudice. The hearing scheduled for May 19-20, 2016 is canceled.

SO ORDERED.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey

¹ To the extent that Settlement Agreement encompasses settlement of matters under laws other than SOX, its approval herein is limited to the claim under SOX within my jurisdiction as specifically provided under that statute. *See, e.g., Poulos v. Ambassador Fuel Oil Co., Inc.*, 86-CAA-1, slip op. at 2 (Sec'y Nov. 2, 1987).

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within fourteen (14) days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1980.110(a). Your Petition should identify the legal conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. *See* 29 C.F.R. § 1980.110(a).

When you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. *See* 29 C.F.R. § 1980.110(a).

If filing paper copies, you must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and you may file an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review. If you e-File your petition and opening brief, only one copy need be uploaded.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include an original

and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and may include an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies. If you e-File your responsive brief, only one copy need be uploaded.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board. If you e-File your reply brief, only one copy need be uploaded.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. §§ 1980.109(e) and 1980.110(b). Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 1980.110(b).