

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 22 February 2019

Case Nos.: 2018-SOX-00041
2018-SOX-00042

In the Matter of:

**RICHARD DUNN and
MICHAEL MORRONE**
Complainants

v.

INERGY, LP
Respondent

ORDER APPROVING SETTLEMENT AND DISMISSING CLAIM

This matter arises out of a complaint of discrimination filed pursuant to 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, 18 U.S.C. § 1514A (“SOX”). Implementing regulations are at 29 C.F.R. Part 1980. In accordance with the order issued on August 28, 2017, a pre-hearing telephone conference was held in this matter on September 15, 2017. By Order dated September 15, 2017, this Tribunal scheduled a hearing for April 23-27, 2018.

On February 21, 2019, Respondent submitted a letter reporting that the cases had settled, and attached a fully executed copy of the parties’ Confidential Settlement Agreement. Respondent requested that the Tribunal approve the Settlement Agreement and dismiss the cases.

This Tribunal finds that the proposed Settlement Agreement is proper, and approves it with several caveats. First, language in this agreement purports to settle, release, or otherwise address claims or potential claims that far exceed the statute involved in this action. *See* Paragraphs 3, 5. The Tribunal limits its review to the asserted SOX whistleblower claims only, as anything beyond that limitation exceeds this Tribunal’s jurisdiction.

Second, the Settlement Agreement provides that it shall be governed by the laws of the State of Pennsylvania. *See* Paragraph 13. Per 49 U.S.C. § 42121(b)(6) (as incorporated by 18 U.S.C. § 1514A(b)(2)), the appropriate United States District Court shall have jurisdiction of any

civil enforcement action related to this Order. To the extent Paragraph 13 is inconsistent with the statute, that paragraph is void and unenforceable.

Order

1. The Respondent's request to approve the parties' fully executed Settlement Agreement and dismiss their SOX claims is GRANTED. **However, the parties are advised that this Tribunal does not bind the parties to the provisions in Paragraphs 3, 5, and 13 that are beyond its jurisdiction or otherwise unenforceable.**
2. The proposed Settlement Agreement is fair and reasonable as to the claims under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002. None of the terms are against the public interest. The proposed Settlement Agreement is APPROVED, and the parties are ORDERED to comply with its terms.

This matter is DISMISSED with prejudice. The hearing in this matter is hereby CANCELLED.

SO ORDERED

SCOTT R. MORRIS
Administrative Law Judge

Cherry Hill, New Jersey