

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 10 January 2013

Case No.: 2012-STA-00035

In the Matter of:

ALEXANDER COLEMAN BRENT,

Complainants,

v.

GREATWIDE DEDICATED TRANSPORT
III, LLC'S,

Respondent.

ORDER APPROVING SETTLEMENT AND DISMISSING COMPLAINT

This proceeding arises under Section 405 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. §31105; and implementing regulations found at 29 C.F.R. Part 1978. The parties have entered into a Settlement Agreement. On December 26, 2012, counsel for the Complainant filed an unopposed motion to approve the settlement and dismiss the matter with prejudice.

Under the Act and implementing regulations, a proceeding may be terminated on the basis of a settlement provided either the Secretary or the Administrative Law Judge approves the agreement. 49 U.S.C §31105 (b)(2)(C); 29 C.F.R. § 1978.111(d)(2). The parties must submit for review an entire agreement to which each party has consented. *Tankersley v. Triple Crown Services, Inc.*, 92-STA-8 (Sec'y Feb. 18, 1993). The agreement must be reviewed to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. *Macktal v. Secretary of Labor*, 923 F.2d 1150 (5th Cir. 1991); *Thompson v. U.S. Department of Labor*, 885 F.2d 551 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec'y Ord. Mar. 23, 1989, slip op. at 1-2.

I note that the Settlement Agreement incorporates certain confidentiality provisions binding upon the parties. *See generally Connecticut Light & Power Co. v. Secretary of the U.S. Department of Labor*, 85 F.3d 89 (2nd Cir. 1996). Records in whistleblower cases are agency records which the agency must make available for public inspection and copying under the Freedom of Information Act (FOIA), 5 U.S.C. §552. In the Settlement Agreement the parties acknowledge "that the confidentiality provisions of this Agreement do not bind anyone acting for or on behalf of the United States Department of Labor and that nothing in this Agreement may be construed as prohibiting any lawful disclosure made by the United States Department of Labor in accordance with the Freedom of Information Act." The confidentiality provision of the

Agreement is consistent with, and makes clear the parties' understanding of, the relevant provisions of FOIA. Therefore, I find that provision acceptable.

After a review of the record, I find that the Settlement Agreement is fair, adequate and reasonable. Accordingly, the Settlement Agreement is **APPROVED** and the Complaint is **DISMISSED** with prejudice.

KENNETH A. KRANTZ
Administrative Law Judge

KAK/mrc
Newport News VA