

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 25 September 2012

Case Number: 2012-STA-00028

In the Matter of:

**DAVID HUGHES,
Complainant,**

v.

**MARK ALVIS INC. (MAI), and
MARK ALVIS and JACK TAYLOR, individually,
Respondents.**

Appearances: Jay B. Jackson, Esq.
Murfreesboro, Tennessee
For the Complainant

Jamie D. Winkler, Esq.
Carthage, Tennessee
For the Respondents

Before: Stephen R. Henley
Administrative Law Judge

DECISION AND ORDER -
APPROVAL OF SETTLEMENT AGREEMENT AND
DISMISSAL OF COMPLAINT WITH PREJUDICE

This case arises under the whistleblower protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended and recodified, 49 U.S.C. § 31105 (hereinafter the "STAA" or "Act") and the regulations promulgated thereunder at 29 CFR Part 1978. Section 405 of the STAA protects employees from discharge, discipline and other forms of retaliation for engaging in protected activity, such as reporting violations of commercial motor vehicle safety rules or refusing to operate a vehicle when the operation would violate these rules or cause serious injury.

Pursuant to a revised notice, I set a hearing date of August 23, 2012 for this case in Nashville, Tennessee. Shortly before the proceedings commenced, the parties indicated they had tentatively reached a settlement and no longer required a formal session. Accordingly, I cancelled the hearing. On September 25, 2012, I received the parties' proposed settlement agreement.

The STAA and implementing regulations provide that proceedings may be terminated on the basis of a settlement if either the Secretary or the Administrative Law Judge approves the settlement. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). Under the STAA, a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-00036 (ARB Dec. 16, 2009). Consistent with this required review, the regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be." 29 C.F.R. 1978.111(d)(2). Any settlement approved by the Assistant Secretary, the ALJ or the ARB constitutes the final order of the Secretary and may be enforced pursuant to § 1978.113. 29 C.F.R. § 1978.111(e).

Having reviewed the settlement agreement and its provisions, which includes dismissal of the complaint with prejudice, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest. I also find Claimant and Employer were ably represented by counsel and that the settlement was not procured through duress. Accordingly, I approve the parties' settlement and dismissal of the complaint with prejudice.¹ The parties shall implement the terms of the approved settlement as specifically stated in their agreement.²

ORDER

The settlement agreement is APPROVED and this matter is DISMISSED with prejudice.

SO ORDERED:

STEPHEN R. HENLEY
Administrative Law Judge

Date Signed: September 25, 2012
Washington, DC

¹ This approval applies only to the STAA complaint over which the Office of Administrative Law Judges has jurisdiction.

² The settlement agreement shall be treated as confidential financial information pursuant to 29 C.F.R. § 70.26.