



Issue Date: 22 February 2019

CASE NO.: 2018-TSC-00004

In the Matter of:

DANIEL OJEDA,
Complainant,

v.

MR. GOOD VAPE, LLC,
Respondent.

ORDER APPROVING SETTLEMENT AGREEMENT

This matter arises under several statutes: the Toxic Substances Control Act, 15 U.S.C. § 2622; the Federal Water Pollution Control Act, 33 U.S.C. § 1367; the Safe Drinking Water Act, 42 U.S.C. § 300j-9(i); the Solid Waste Disposal Act, 42 U.S.C. § 6971; and section 11(c) of the Occupational Safety & Health Act, 29 U.S.C. § 660.¹ Settlements under the Safe Drinking Water Act and Toxic Substances Control Act require the approval of the administrative law judge. *See* 29 C.F.R. § 24.111(d)(2). Any settlement approved by the administrative law judge constitutes the final order of the Secretary of Labor and may be enforced in the U.S. district courts. *Id.* § 24.111(e).

The parties have settled the claim. I disapproved their initial proposed settlement agreement, citing a single deficiency.

On February 20, 2019, the parties submitted a revised agreement. The revised settlement agreement addresses the deficiency. As the parties agreed to be responsible for their own attorney's fees and costs, I need not address fees separately. I approve the revised settlement agreement with some caveats.

First, some of the provisions in the settlement agreement extend to claims beyond the scope of the statutes involved in the present claim. I limit my review to the statutes cited in the first paragraph above and their implementing regulations.

Second, the parties should be aware that – regardless of any private agreement they might have about confidentiality – the Freedom of Information Act applies to all of this Office's records and will apply to the settlement agreement. If a request is received for access to the settlement

¹ *See* implementing regulations at 29 C.F.R. Parts 24, 1977. This Office does not hear cases arising under section 11(c) of the Occupational Safety & Health Act.

agreement under FOIA, the Department of Labor will provide the litigants with pre-disclosure notification and an opportunity to respond before any disclosure is made. *See* 29 C.F.R. § 70.26.

Third, the parties choose California law to control and a California venue to decide any dispute between them concerning the settlement agreement. ¶ 10. As I construe this provision, it is not intended to and does not limit the authority of any federal court or of the Secretary of Labor. It is an agreement between the parties, limited in its application to themselves. For the federal courts and the Secretary, the law and regulations of the United States control.²

Order

The proposed settlement agreement is fair and reasonable as to the claims under the statutes cited in the first paragraph above. The settlement agreement adequately protects Complainant. None of its terms is against public policy. The proposed settlement is therefore APPROVED, and the parties are ORDERED to comply with its terms. *See* 29 C.F.R. 29 C.F.R. § 24.111(d)(2). This matter is DISMISSED. This is the final order of the Secretary of Labor and may be enforced in the U.S. district courts. 29 C.F.R. § 24.111(e).

SO ORDERED.

STEVEN B. BERLIN
Administrative Law Judge

² *See Hildebrand v. H. H. Williams Trucking, LLC*, ARB No. 11-030, ALJ No. 2010-STA-056, slip op. at 3 (ARB Sept. 26, 2011).