In the Matter of:

JOHN F. McANDREWS,          ARB CASE NO. 05-126
COMPLAINANT,                ALJ CASE NO. 2005-STA-00031

v.

AIRBORNE EXPRESS,

RESPONDENT.

BEFORE:    THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT WITH PREJUDICE

This case arises under the employee protection provisions of the Surface
Transportation Assistance Act (STAA) of 1982, as amended.¹ On June 30, 2005, John
McAndrews, the Complainant; Airborne Express, the Respondent, and the Secretary of
Labor submitted a Stipulation of Settlement and request for dismissal with prejudice to a
Department of Labor Administrative Law Judge (ALJ). Under the regulations
implementing the STAA, the parties may settle a case at any time after the filing of
objections to the Assistant Secretary’s preliminary findings “if the participating parties
agree to a settlement and such settlement is approved by the Administrative Review
Board . . . or the ALJ.”² 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.”³

In this case, when the parties reached a settlement, the case was pending before
the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On June
30, 2005, the ALJ issued a [Recommended] Decision and Order Approving Settlement

³ Id.
and Dismissing Claim. According to the STAA’s implementing regulations, the Administrative Review Board issues the final decision and order in this case.⁴

The Board issued a Notice of Review and Briefing apprising the parties of their right to submit briefs supporting or opposing the ALJ’s decision.⁵ Counsel for the Complainant advised the Board that he would not be filing a brief in this matter. A U. S. Postal Service certified-mail-return-receipt indicates that Airborne Express and its counsel received the notice of review and briefing schedule, but it did not respond to the notice.

Having reviewed the agreement and finding it to be fair and reasonable, we APPROVE it and DISMISS the complaint with prejudice.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge


⁵ 29 C.F.R. § 1978.109(c)(2).