



In the Matter of:

VALERIE BARKER,

ARB CASE NO. 06-045

COMPLAINANT,

ALJ CASE NO. 2006-SOX-1

v.

DATE: July 10, 2006

PERMA-FIX OF DAYTON, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Karina Wahl, Esq., Faruki Ireland & Cox, P.L.L., Dayton, Ohio

For the Respondent:

Donn C. Meindertsma, Esq., Conner & Winters, LLP, Washington, D.C.

**FINAL DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING CASE WITH PREJUDICE**

This case arose when the Complainant, Valerie Barker, filed a complaint under the whistleblower protection provisions of the Sarbanes-Oxley Act of 2002 (SOX or the Act).¹ On January 11, 2006, a Department of Labor Administrative Law Judge (ALJ) issued an Order Granting Motion to Dismiss (O. D.) on the grounds that Barker did not timely file her complaint and that she failed to establish that she was entitled to equitable tolling of the limitations period.

¹ 18 U.S.C.A. § 1514A (West Supp. 2005). The regulations implementing SOX are found at 29 C.F.R. Part 1980 (2005).

The Secretary of Labor has delegated her authority to issue final administrative decisions in cases arising under SOX to the Administrative Review Board.² Barker filed a timely petition requesting the Board to review the ALJ's O. D.³ In response, the Board issued a Notice of Appeal and Order Establishing Briefing Schedule.

On July 3, 2006, the parties informed the Board that they had entered into a settlement agreement and jointly requested the Board to dismiss this action with prejudice. The parties may settle a case arising under SOX if the participating parties agree to a settlement and they provide the Board with a copy of the settlement for its review and approval.⁴

Our review of the settlement agreement reveals that it is intended to settle matters under laws other than SOX.⁵ Our authority to review settlement agreements is limited to the statutes within our jurisdiction and is defined by the applicable statutes.⁶ Therefore, we have restricted our review of the Settlement Agreement to ascertaining whether its terms fairly, adequately and reasonably settle this SOX case over which we have jurisdiction, and we have determined that the terms do so settle the case. *Id.* Accordingly, we **APPROVE** the Settlement Agreement and **DISMISS** this case with prejudice.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

OLIVER M. TRANSUE
Administrative Appeals Judge

² Secretary's Order 1-2002 (Delegation of Authority and Responsibility to the Administrative Review Board), 67 Fed. Reg. 64272 (Oct. 17, 2002); 29 C.F.R. § 1980.110.

³ 29 C.F.R. § 1980.110(a).

⁴ 29 C.F.R. § 1980.111(d)(2).

⁵ Confidential Settlement Agreement and General Release, ¶¶ 3, 4, 7, 8, 9.

⁶ *Saporito v. GE Med. Sys.*, ARB No. 05-009, ALJ Nos. 03-CAA-1, 03-CAA-2, slip op. at 3 (ARB May 24, 2005).