



**In the Matter of:**

**ASSISTANT SECRETARY OF LABOR FOR  
OCCUPATIONAL SAFETY AND HEALTH,**

**ARB CASE NO. 03-158**

**ALJ CASE NO. 03-STA-38**

**PROSECUTING PARTY,**

**DATE: November 25, 2003**

**and**

**LAWRENCE P. LOBMEYER,  
RICHARD JONES,**

**COMPLAINANTS,**

**v.**

**J.A. McDONALD, INC. AND JOHN MAGNUS,**

**RESPONDENTS.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

***For the Prosecuting Party:***

Howard M. Radzely, Acting Solicitor of Labor; Frank V. McDermott, Jr.,  
Regional Solicitor, Kevin E. Sullivan, Attorney, U.S. Department of Labor  
*Washington, D.C.*

***For the Respondent:***

Elizabeth J. Grant, Esq.; David R. McLean, Esq.; Paul, Frank & Collins,  
*Burlington, Vermont*

**FINAL ORDER APPROVING SETTLEMENT AGREEMENT  
AND DISMISSING COMPLAINT WITH PREJUDICE**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 1997), and implementing regulations at 29 C.F.R. Part 1978 (2003). The Administrative Law Judge (ALJ) below issued a Recommended Decision and Order recommending approval of the parties' settlement agreement and dismissal of the complaint with prejudice. *Lobmeyer v. J.A. McDonald, Inc.*, ALJ No. 03-STA-38 (Sept. 30, 2003).

Pursuant to 29 C.F.R. § 1978.109(c), the Administrative Review Board “shall issue the final decision and order based on the record and the decision and order of the administrative law judge.” The parties have indicated that they have no objections to the Recommended Decision and Order.

We concur with the ALJ’s determination that the parties’ settlement agreement is fair, adequate and reasonable. We adopt as our own the ALJ’s Recommended Decision and Order Approving Settlement and Dismissing the Complaint and attach it herewith. Our approval is limited to settlement of the instant case, and we understand the settlement terms relating to release of STAA claims as pertaining only to the facts and circumstances giving rise to this case.

### **CONCLUSION**

The parties have agreed to settle the Complainant’s STAA claim. Accordingly, we **APPROVE** the agreement and **DISMISS** the complaint. See Settlement Agreement and Recommended Decision and Order.

**SO ORDERED.**

**JUDITH S. BOGGS**  
**Administrative Appeals Judge**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**