



**In the Matter of:**

**ANTHONY BLANKENSHIP,**

**ARB CASE NO. 04-113**

**COMPLAINANT,**

**ALJ CASE NO. 04-STA-00021**

**v.**

**DATE: September 23, 2004**

**MASTEC NORTH AMERICA, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainant:*

*Andre E. Townsel, Esq., Andreyuk, Brazil & Townsel, Bridgeton, Missouri*

*For the Respondent:*

*John W. Alden, Esq., Kilpatrick Stockton, LLP, Atlanta, Georgia*

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

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.

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 not filed any objections to the Recommended Decision and Order.

The ARB concurs with the ALJ's determination that the parties' settlement agreement is fair, adequate and reasonable. However, we note that the agreement appears to encompass the settlement of matters under laws other than the STAA. *See* ¶¶ 4, 9. Because the Board's authority over settlement agreements is limited to such statutes as are within the Board's

jurisdiction and is defined by the applicable statute, we approve only the terms of the agreement pertaining to the Complainant's STAA claim. *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003).

It is also noted that paragraph 13 provides that the agreement shall be governed and construed under the laws of Missouri. We construe this choice of law provision as not limiting the authority of the Secretary of Labor and any Federal court, which shall be governed in all respects by the laws and regulations of the United States. *See Phillips v. Citizens' Ass'n for Sound Energy*, No. 91-ERA-25, slip op. at 2 (Sec'y Nov. 4, 1991).

The parties have agreed to settle the Complainant's STAA claim. Accordingly, with the reservations noted above limiting our approval to the settlement of the Complaint's STAA claim and construing the choice of law provision, we **APPROVE** the agreement and **DISMISS** the complaint with prejudice.

**SO ORDERED.**

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

**WAYNE C. BEYER**  
**Administrative Appeals Judge**