



**In the Matter of:**

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

**PROSECUTING PARTY,**

**and**

**PAUL R. HISERT,**

**COMPLAINANT,**

**v.**

**LONGHORN TRUCKING COMPANY,  
INC.,**

**RESPONDENT.**

**ARB CASE NO. 05-056**

**ALJ CASE No. 04-STA-49**

**DATE: April 28, 2005**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Prosecuting Party:*

*Harold LeMar, Esq., U.S. Department of Labor, New York, New York*

*For the Complainant:*

*Paul R. Hisert, Fort Plain, New York*

*For the Respondent:*

*Elayne G. Gold, Esq., Roemer Wallens & Mineaux, LLP, Albany, New York*

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

This case arises under the employee protection provision of the Surface Transportation Assistance Act (STAA), as amended, 49 U.S.C.A. § 31105 (West 1997), and the implementing regulations at 29 C.F.R. Part 1978 (2004). Paul Hisert filed a

complaint alleging that the Longhorn Trucking Company fired him in retaliation for engaging in activity protected by STAA. Before the scheduled hearing, the parties settled the matter and requested approval of their agreement from the Department of Labor Administrative Law Judge (ALJ) assigned to the case. The parties submitted their agreement to the ALJ for review, and on February 7, 2005, he issued an Order Approving Settlement.

#### **DISCUSSION**

Under STAA, the parties may settle a case “if . . . such settlement is approved by the Administrative Review Board . . . or the ALJ.” 29 C.F.R. § 1978.111(d)(2). The regulations direct the parties to file a copy of the settlement agreement “with the ALJ or the Administrative Review Board as the case may be.” *Id.* In this case, the parties reached settlement while this matter was pending before the ALJ. The ALJ, therefore, reviewed and approved the agreement and then forwarded it to the Administrative Review Board (ARB) for issuance of the final decision and order. See 29 C.F.R. § 1978.109(c).

We have reviewed the terms of the agreement and find it to be a fair, adequate and reasonable settlement of the complaint.

#### **CONCLUSION**

The parties have agreed to settle the Complainant’s STAA claim. Accordingly, we **APPROVE** the agreement and **DISMISS** the Complaint.

**SO ORDERED.**

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

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