



In the Matter of:

TODD W. MOUSER,

ARB CASE NO. 06-034

COMPLAINANT,

ALJ CASE NO. 2005-STA-49

v.

DATE: March 23, 2006

HOOVESTOL, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Respondent:

Penelope J. Phillips, Esq., Ryan A. Olson, Esq., Felhaber, Larson, Fenlon & Vogt, Minneapolis, Minnesota

**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 December 20, 2005, the Respondent, Hoovestol, Inc., submitted an unopposed Motion for Approval of Settlement 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

¹ 49 U.S.C.A. § 31105 (West 1997).

² 29 C.F.R. § 1978.111(d)(2) (2005).

settlement “with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be.”³

When the parties reached a settlement the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On December 21, 2005, the ALJ issued an Order Recommending Approval of Settlement Agreement and Dismissal of Case with Prejudice. 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 Schedule apprising the parties of their right to submit briefs supporting or opposing the ALJ’s order.⁵ The Complainant did not respond to the Board’s notice. On January 30, 2006, the Respondent submitted a brief in support of the ALJ’s order.

The parties certified that the agreement constitutes the entire settlement with respect to the Complainant’s claims.⁶ Review of the agreement reveals that it may encompass the settlement of matters under laws other than the STAA.⁷ The Board’s authority over settlement agreements is limited to the statutes that are within the Board’s jurisdiction as defined by the applicable statute. Therefore, we approve only the terms of the agreement pertaining to the Complainant’s STAA claim.⁸

Furthermore, we construe paragraph 12, the governing 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.⁹

³ *Id.*

⁴ 29 C.F.R. § 1978.109(c)(2); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001).

⁵ 29 C.F.R. § 1978.109(c)(2).

⁶ Settlement Agreement, Waiver and Release (Settlement Agreement) ¶ 9.

⁷ Settlement Agreement ¶ 2, entitled “Release.”

⁸ *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003).

⁹ *See Phillips v. Citizens’ Ass’n for Sound Energy*, 1991-ERA-25, slip op. at 2 (Sec’y Nov. 4, 1991).

As so construed, we **APPROVE** the terms of the agreement pertaining to Mouser's STAA claim and **DISMISS** the complaint with prejudice.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge