



**In the Matter of:**

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

**ARB CASE NO. 04-143**

**ALJ CASE NO. 03-STA-00057**

**PROSECUTING PARTY,**

**DATE: September 28, 2004**

**and**

**LESLIE GREGG,**

**COMPLAINANT,**

**v.**

**D & M WRECKING, INC.  
d/b/a McMAHAN'S WRECKING,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearance:**

*For the Respondent:*

*Donald McMahan, D & M Wrecking, Inc., Cleveland, Ohio*

**FINAL ORDER APPROVING SETTLEMENT  
AND DISMISSING COMPLAINT**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982 (STAA), 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 Decision and Order approving the parties' settlement agreement.

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.” July 14, 2004, the Board issued a Notice of Review and Order to Show Cause permitting either party to show cause why the Board should not approve the ALJ’s order. Neither party objected to the ALJ’s order.

The ARB concurs with the ALJ’s determination that the parties’ settlement agreement is fair, adequate and reasonable. But we note that the agreement encompasses the settlement of matters under laws other than the STAA. See ¶ 10 of the Stipulation and Settlement Agreement. 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 Leslie Gregg’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).

The parties have agreed to settle Gregg’s STAA claim. Accordingly, with the reservation noted above limiting our approval to the settlement of Gregg’s STAA claim, 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**