

**U.S. Department of Labor**

Office of Administrative Law Judges  
11870 Merchants Walk, Suite 204  
Newport News, VA 23606

(757) 591-5140 (TEL)  
(757) 591-5150 (FAX)



**Issue Date: 31 January 2006**

Case No.: 2005-STA-0056

In the matter of:

WILLIAM J. GILBERT,  
Complainant,

v.

McELROY TRUCK LINES, INC.,  
Respondent.

**RECOMMENDED ORDER APPROVING SETTLEMENT**

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 2003), and the implementing regulations at 29 C.F.R. Part 1978 (2004). The parties have filed a request for approval of their settlement agreement and dismissal of the complaint with prejudice.

Pursuant to section 31105(b)(2)(C) of the STAA, "[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation." Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's findings "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board. . . or the ALJ." 29 C.F.R. § 1978.111(d)(2). Under the STAA a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, 1992-STa-8 (Sec'y Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board as the case may be." *Id.*

I have carefully reviewed the parties' settlement agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. Pursuant to 29 C.F.R. § 1978.109(c), however, the Administrative Review Board must issue the final order of dismissal of a STAA complaint resolved by settlement. *See Howick v. Experience Hendrix, LLC*, ARB No. 02-049, ALJ No. 2000-STa-32 (ARB Sept. 26, 2002).

Accordingly, IT IS RECOMMENDED that the Administrative Review Board APPROVE the agreement and DISMISS the complaint with prejudice.

SO ORDERED.

A

LARRY W. PRICE  
Administrative Law Judge

LWP/LPR  
Newport News, Virginia

**NOTICE OF APPEAL RIGHTS:** This Recommended Order Approving Settlement and the administrative file in this matter will be forwarded to the Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210, for entry of a Final Order. *See* 29 C.F.R. § 1978.109(c). The parties may file with the Administrative Review Board briefs in support of or in opposition to Recommended Order Approving Settlement within thirty days of the issuance of this Recommended Decision unless the Administrative Review Board, upon notice of the parties, establishes a differed briefing