

**U.S. Department of Labor**

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**Issue Date: 14 June 2005**

CASE NO.: 2005-SOX-00034

In the Matter of

WIL JACQUES,  
Complainant,

v.

COMPETITIVE TECHNOLOGIES, INC.,  
Respondent.

**ORDER APPROVING SETTLEMENT AND  
DISMISSING COMPLAINT WITH PREJUDICE**

This case arises out of complaints of discrimination filed pursuant to the employee protection provisions of Public Law 107-204, Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, title VIII of the Sarbanes-Oxley Act of 2002, ("the Act") enacted on July 30, 2002. The Act allows employees who "provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of [certain provisions of the Act], any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders..." to bring a civil action to protect against retaliation for their actions. 18 U.S.C. § 1514A(a)(1). The Act extends such protection to employees of companies "with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. § 781) ["SEA of 1934"] or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78o(d))". 18 U.S.C. § 1514A(a).

On September 25, 2003 Wil Jacques ("Complainant") filed a complaint with the Occupational Safety and Health Administration of the U.S. Department of Labor ("OSHA"), alleging that his employer, Competitive Technologies Inc., ("Respondent") retaliated against him in violation of the Act. Complainant's case was originally consolidated with that of another individual, but was severed upon motion by Complainant.

On June 10, 2005, Complainant and Respondent jointly moved for approval of a settlement agreement ("Agreement") entered into between the parties, and also for dismissal of Complainant's complaint with prejudice. The parties also requested that the agreement be approved under seal.

I have carefully reviewed the terms of the Agreement and the assertions of the parties regarding the need for confidentiality. The Secretary of the Department of Labor has ruled that sealing the administrative record in order to protect the confidentiality of a settlement is not justified. See, *Vogel v. Florida Power Corp.*, 90-ERA-49 (Sec'y Mar. 12, 1992); *Porter v. Brown & Root, Inc.*, 91-ERA-4 (Sec'y Feb. 25, 1994). Therefore, I decline to direct restricted access to the Agreement pursuant to 29 C.F.R. § 18.56. However, I find that the Agreement conforms with 29 C.F.R. § 70.26 and accept it in accordance with the confidentiality procedures set forth therein, in consideration of the request of the parties that the Agreement be exempted from production under any request made under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. Although the Department of Labor is responsible for making determinations regarding the application of FOIA and exemptions from disclosure, I find that the parties are entitled to pre-disclosure notice set forth in 29 C.F.R. § 70.26.

#### FINDINGS OF FACT

I make the following findings:

1. The Agreement is fair, adequate and reasonable on its face;
2. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits; and
3. The Agreement reflects the entire understanding between the parties and fully settles all controversies arising from the circumstances underlying the claims under the Act.

#### ORDER

Accordingly, IT IS HEREBY ORDERED that:

1. The Agreement between the parties is APPROVED, and the parties shall comply with the terms thereof;
2. The complaint of WIL JACQUES is DISMISSED WITH PREJUDICE;
3. The terms of the Agreement shall not be disclosed by any party, either specifically or generally, pursuant to 29 C.F.R. § 70.26.

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Janice K. Bullard  
Administrative Law Judge

Cherry Hill, New Jersey