



Issue Date: 25 January 2008

Case No.: 2008-STA-00018

In the Matter of

MICHAEL DOUCETTE,
Complainant,

v.

LILY TRANSPORTATION CORP.,
Respondent.

APPEARANCES: Stephanie Jazlowiecki, Esquire
For the Complainant

Katherine Clark, Esquire
For the Respondent

BEFORE: John M. Vittone
Chief Administrative Law Judge

**RECOMMENDED ORDER APPROVING SETTLEMENT
AGREEMENT AND CANCELLING HEARING**

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. 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 Act, "[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 settlement agreement, which is incorporated by reference, and **DISMISS** the complaint with prejudice. The hearing scheduled for February 25, 2008, in Portland, Maine, is hereby **CANCELLED. SO ORDERED.**

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JOHN M. VITTON
Chief Administrative Law Judge