



In the Matter of:

**LEE GOHERING,**

**ARB CASE NO. 97-077**

**COMPLAINANT,**

**ALJ CASE NO. 97-ERA-11**

**v.**

**KOPPEL STEEL CORPORATION,**

**DATE: April 10, 1997**

**RESPONDENT.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD<sup>1</sup>

### **ORDER**

This case arises under the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851 (1988 and Supp. IV 1992) (ERA). The parties submitted a Settlement Agreement to the Administrative Law Judge (ALJ) seeking approval of the settlement and dismissal of the complaint. The ALJ issued a Recommended Decision and Order on March 14, 1997 approving the settlement.

Pages 3 and 4 of the Agreement indicate that Respondent will pay a specified amount to Complainant for all of his monetary claims and indicates that payments will be made by way of checks payable jointly to Complainant and his attorney. There is no indication as to the amount of money to be paid to Complainant's attorney pursuant to the proposed settlement. The Board must know the amount Complainant will receive in order to **determine if the settlement agreement is fair, adequate and reasonable**. This amount affects not only the Complainant's individual interest, but impacts on the public interest as well, because if the amount is not fair, adequate and reasonable, other employees may be discouraged from reporting safety violations. *See Plumlee v. Alyeska Pipeline Service Co.*, 92-TSC-7, Sec. Dec. and Order, Aug. 6, 1993, slip

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<sup>1</sup>On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996). Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the Administrative Review Board now issues final agency decisions. Final procedural revisions to the regulations implementing this reorganization were also promulgated on that date. 61 Fed. Reg. 19982.

op. at 5; *Biddy v. Alyeska Pipeline Service Company*, ARB Case Nos. 96109, 97-015, Order, May 31, 1996, slip op. at 1-2.

**The Board also requires that all parties requesting settlement approval of cases arising under the employee protection provisions of the ERA provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim, or to certify that no other such settlement agreements were entered into between the parties.** *Biddy v. Alyeska Pipeline Service Company*, ARB Case Nos. 96-109, 97-015, Final Order Approving Settlement and Dismissing Complaint, Dec. 3, 1996, slip op. at 3. **Therefore, prior to approving the settlement, the parties are directed to provide the specified additional settlement documentation or certification.**

The parties are required to file a joint response to this Order within ten (10) days. If the parties cannot agree upon a joint response, Complainant's counsel is to submit the required information within ten (10) days from the issuance of this Order. Respondent may submit a response within fifteen (15) days of the issuance of this Order.

**SO ORDERED.**

**DAVID A. O'BRIEN**

Chair

**KARL J. SANDSTROM**

Member

**JOYCE D. MILLER**

Alternate Member