



In the Matter of:

FRANK SAMPLE,

ARB CASE NO. 04-151

COMPLAINANT,

ALJ CASE NO. 02-STA-00029

v.

DATE: September 28, 2004

J. B. HUNT TRANSPORT SERVICES, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**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 and dismissing the complaint with prejudice.

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 22, 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 ¶ IV A of the Confidential 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 Frank Sample'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). Furthermore, our approval is limited to this case,

and we understand the settlement terms relating to release of STAA claims as pertaining only to the facts and circumstances giving rise to this case.

It is also noted that paragraph 13 provides that the agreement shall be governed and construed under the laws of Minnesota. We construe this choice of law provision as not limiting the authority of the Secretary of Labor and any Federal court, which shall be governed in all respects by the laws and regulations of the United States. *See Phillips v. Citizens' Ass'n for Sound Energy*, No. 91-ERA-25, slip op. at 2 (Sec'y Nov. 4, 1991).

The parties have agreed to settle Sample's STAA claim. Accordingly, with the reservations noted above limiting our approval to the settlement of Sample's August 21, 2001 STAA claim and construing the choice of law provision, 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