



Issue Date: 25 February 2005

Case No.: **2004-AIR-00024**

In the Matter of:

REUBEN WENGER,
Complainant,

v.

AIRTRAN AIRWAYS
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
And
GRANTING THE MOTION TO DISMISS WITH PREJUDICE

This is a proceeding under the provisions of Section 519 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR21" or "ACT") 49 U.S.C. 42121.

The parties engaged in settlement discussions.

Eventually, the parties signed a settlement and release agreement which was submitted to this office on February 10, 2005.

This agreement contained fourteen stipulations and a request that the proceeding be dismissed with prejudice. The agreement between the parties is incorporated herein by reference.

My review of the settlement agreement is limited to a determination of whether its terms are adequate and reasonable. The settlement must adequately protect the whistleblower. Furthermore, settlement must not be contrary to public interest.

First, I note that the parties are represented by counsel. In reaching an agreement, Respondent does not admit it has broken any law or regulation, nor is the agreement to be construed as an admission of wrongdoing by Respondent. Moreover, Complainant releases Respondent from all future claims or causes of action arising out of facts occurring up to the date of execution of the agreement.

Each party is to pay their own costs. The Complainant has requested that this agreement not be attached to this order but be placed in a sealed envelope for review by the Administrative Review Board, only.

The undersigned finds that this request is reasonable in this case.

Pursuant to Section one of the Agreement, Wenger is directed to pay the sum of \$250.00 to Greenberg Traurig, P. A., within ten days of the issuance of this order.

After consideration of the settlement agreement, I find that none of the terms or conditions are unacceptable. Moreover, I find the agreement to be fair, adequate and reasonable, and I believe it is in the public interest to adopt the agreement as a basis of the administrative disposition of this case.

Therefore, I approve the settlement. Further the motion to dismiss with prejudice is hereby **granted**.

A

RICHARD K. MALAMPHY
Administrative Law Judge

RKM/ccb
Newport News, Virginia

NOTICE OF APPEAL RIGHTS: This decision shall become the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1979.110 (2002), unless a petition for review is timely filed with the Administrative Review Board (“Board”), U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington DC 20210. Any party desiring to seek review, including judicial review, of a decision of the administrative law judge must file a written petition for review with the Board, which has been delegated the authority to act for the Secretary and issue final decisions under 29 C.F.R. Part 1979. To be effective, a petition must be received by the Board within 15 days of the date of the decision of the administrative law judge. The petition must be served on all parties and on the Chief Administrative Law Judge. If a timely petition for review is filed, the decision of the administrative law judge shall be inoperative unless and until the Board issues an order adopting the decision, except that a preliminary order of reinstatement shall be effective while review is conducted by the Board. The Board will specify the terms under which any briefs are to be filed. Copies of the petition for review and all briefs must be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210. See 29 C.F.R. 55 1979.109(c) and 1979.110(a) and (b).