



**In the Matter of:**

**JOHN F. Mc ANDREWS,**

**ARB CASE NO. 05-126**

**COMPLAINANT,**

**ALJ CASE NO. 2005-STA-00031**

**v.**

**DATE: September 28, 2005**

**AIRBORNE EXPRESS,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

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

This case arises under the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended.<sup>1</sup> On June 30, 2005, John McAndrews, the Complainant; Airborne Express, the Respondent, and the Secretary of Labor submitted a Stipulation of Settlement and request for dismissal with prejudice to a Department of Labor Administrative Law Judge (ALJ). Under the regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s preliminary findings “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ.”<sup>2</sup> The regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be.”<sup>3</sup>

In this case, when the parties reached a settlement, the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On June 30, 2005, the ALJ issued a [Recommended] Decision and Order Approving Settlement

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<sup>1</sup> 49 U.S.C.A. § 31105 (West 1997).

<sup>2</sup> 29 C.F.R. § 1978.111(d)(2) (2004).

<sup>3</sup> *Id.*

and Dismissing Claim. According to the STAA's implementing regulations, the Administrative Review Board issues the final decision and order in this case.<sup>4</sup>

The Board issued a Notice of Review and Briefing apprising the parties of their right to submit briefs supporting or opposing the ALJ's decision.<sup>5</sup> Counsel for the Complainant advised the Board that he would not be filing a brief in this matter. A U. S. Postal Service certified-mail-return-receipt indicates that Airborne Express and its counsel received the notice of review and briefing schedule, but it did not respond to the notice.

Having reviewed the agreement and finding it to be fair and reasonable, we **APPROVE** it and **DISMISS** the complaint with prejudice.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**WAYNE C. BEYER**  
**Administrative Appeals Judge**

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<sup>4</sup> 29 C.F.R. § 1978.109(c)(2); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001).

<sup>5</sup> 29 C.F.R. § 1978.109(c)(2).