



Issue Date: 07 July 2016

Case No.: 2016-TSC-00001

In the Matter of:

MICHAEL HOLCOMB,
Complainant,

v.

INVISTA,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT

This case arises under the employee protection provisions of the Toxic Substances Control Act (“TSC”), 15 U.S.C. § 2622, and the regulations promulgated thereunder at 29 C.F.R. Part 24. The TSC and its implementing regulations provide that, at any time after the filing of objections to the Assistant Secretary’s findings and preliminary order, the case may be settled. 29 C.F.R. § 24.111(d)(2). If the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. *Id.*; *see also* 29 C.F.R. § 18.71(a). Any settlement approved by the administrative law judge becomes the final order of the Secretary and may be enforced pursuant to 29 C.F.R. § 24.113. *See* 29 C.F.R. § 24.111(e).

On January 14, 2015, I issued a *Notice of Hearing and Prehearing Order*, scheduling a hearing in this matter for August 18, 2016 in Wichita, Kansas. The parties subsequently participated in mediation services offered by the Office of Administrative Law Judges pursuant to an order appointing a mediator issued on February 9, 2016. After a successful mediation process, this matter was returned to me by order dated June 7, 2016.

On June 30, 2016,¹ the parties submitted an executed *Confidential Settlement Agreement and General Release* (“Settlement”) for my review.² The Settlement resolves the controversy

¹ An unsigned settlement agreement was previously filed with this Office of June 27, 2016. This Order is issued after consideration of the second, signed copy of the settlement agreement.

² The parties have agreed that the terms of the settlement will be treated as confidential. The parties are afforded the right to request that information be treated as confidential commercial information where, as here, they are required to submit information involuntarily. 20 C.F.R. § 70.26(b) (2001). The DOL is then required to take steps to preserve the confidentiality of that information, and must provide the parties with predisclosure notification if a FOIA request is received seeking release of that information. Accordingly, the Settlement in this matter will be placed in an envelope marked “PREDISCLURE NOTIFICATION MATERIALS.” Consequently, before any information in this file is disclosed pursuant to a FOIA request, the DOL is required to notify the parties to permit

arising from the complaint of Michael Holcomb (“Complainant”) against INVISTA (“Respondent”). The parties represent that Complainant will release any and all claims against Respondent arising out of his employment with Respondent, and that the present action shall be withdrawn.³ The Settlement provides that Respondent shall make payment to Complainant in the amount agreed upon, as well as separate payment to Complainant’s attorney in the amount agreed upon. The Settlement is signed by Complainant and Respondent’s representative, as well as counsel for Complainant and for Respondent.

Having reviewed the Settlement terms and noting that the parties are ably represented by counsel, I find the terms, obligations, and conditions to be fair, adequate, reasonable, and not contrary to public policy. Based on the parties’ representations, I also find that the Settlement was not procured through duress. Accordingly, I approve the parties’ Settlement and dismiss the complaint with prejudice.⁴ This Order shall have the same force and effect as one made after a full hearing on the merits. The parties shall implement the terms of the approved Settlement as stated in their agreement.

ORDER

The settlement agreement is hereby **APPROVED** and this matter is **DISMISSED** with prejudice.

SO ORDERED.

CARRIE BLAND
Administrative Law Judge

Washington, D.C.

them to file any objections to disclosure. *See* 29 C.F.R. § 70.26 (2001). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Settlement.

³ As stated in *Poulos v. Ambassador Fuel Oil Co. Inc.*, Case No. 86-CAA-1, Sec. Order, (Nov. 2, 1987), “the Secretary’s authority over the settlement agreement is limited to such statutes as are within [the Secretary’s] jurisdiction.” I have accordingly limited my review of the Settlement to whether the terms of the Settlement are a fair, adequate, and reasonable settlement of Complainant’s allegations that Respondent violated the TSC

⁴ This approval applies only to the TSC complaint over which the Office of Administrative Law Judges has jurisdiction.