



Issue Date: 19 June 2018

Case No.: 2018-TSC-00001

In the Matter of

BRENNAN FRICK
Complainant

v.

CANYON MIDSTREAM PARTNERS, LLC
Respondent

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT, DISMISSING CLAIM, AND SEALING SETTLEMENT DOCUMENTS

1. Nature of Request. This proceeding arises under the employee protection provisions of the Toxic Substances Control Act of 1976 (“TSC”), 42 U.S.C. § 2622. The Act includes a whistleblower protection provision with a Department of Labor complaint procedure. The parties submitted a proposed settlement agreement for the undersigned’s approval and requested the financial terms portion of the agreement be sealed.

2. Procedural History, Findings of Fact, and Legal Conclusions.

a. Complainant filed a complaint on April 12, 2017 with the Occupational Safety and Health Administration (OSHA) alleging Respondent committed discrimination prohibited by the FRSA. Respondent filed a response to the complaint in which it denied liability. The undersigned issued a Notice of Hearing on March 1, 2018.

b. On June 13, 2018, the parties filed a “Confidential Settlement Agreement and Mutual Release” for the undersigned’s approval.¹ The parties requested that the Settlement Agreement not be filed in the public record. The Settlement Agreement was signed in counterpart by each of the parties.

c. The Settlement Agreement contains confidential financial information pertaining to the terms of payment to Complainant.

¹ At any time after the filing of objections to the Assistant Secretary’s findings and preliminary order, the case may be settled, and, if the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. 29 C.F.R. § 24.111. Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 24.111(e).

d. Having been advised of the settlement terms and having reviewed the Settlement Agreement, noting that the parties are represented by counsel, the undersigned finds the terms to be fair, adequate, reasonable, and not contrary to public policy.

3. Ruling and Order.

a. The Settlement Agreement is **APPROVED** and may be enforced pursuant to 29 C.F.R. § 24.113. The parties shall implement the terms as stated in the Settlement Agreement, to the extent not otherwise accomplished. This Order shall have the same force and effect as one made after a full hearing on the merits.

b. The parties have agreed to keep the specific terms of the Settlement Agreement confidential pursuant to 29 C.F.R. § 70.26. Accordingly, the Settlement Agreement shall be sealed, remain confidential, and placed in a sealed envelope in the administrative file.

c. Notwithstanding the parties' agreement, the parties' submissions, including the Settlement Agreement, become part of the record of the case and are subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(a). If a FOIA request is made for the Settlement Agreement, the U.S. Department of Labor will respond and decide whether to exercise its discretion to claim any applicable exemption. The parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

d. The hearing scheduled for August 29, 2018 in Houston, Texas is **CANCELLED**. This case is **DISMISSED** with prejudice.

SO ORDERED this day at Covington, Louisiana.

TRACY A. DALY
ADMINISTRATIVE LAW JUDGE