

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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August 30, 2017

SECRETARY OF LABOR  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA) on behalf  
of PEDRO IGLESIAS,  
Petitioner

v.

TITAN FLORIDA, LLC,  
Respondent

TEMPORARY REINSTATEMENT  
PROCEEDING

Docket No. SE 2015-0105  
A.C. No. 08-00051

DISCRIMINATION PROCEEDING

Docket No. SE 2015-0234-DM  
A.C. No. 08-00051

MSHA Case No. SE-MD-15-04

Mine: Pennsuco Cement Plant

**ORDER OF DISMISSAL**  
**DECISION APPROVING SETTLEMENT**  
**ORDER TO PAY**

Before: Judge McCarthy

This proceeding is before me on an Amended Complaint of Discrimination filed by the Secretary of Labor (Secretary) on April 2, 2015, on behalf of Complainant, Pedro Iglesias (Iglesias), pursuant to section 105(c)(2) of the Federal Mine Safety and Health Act of 1977 (the Act), as amended. *See* 30 U.S.C. § 815(c)(2). The Amended Complaint alleges that on November 11, 2014, the Respondent, Titan Florida, LLC (Titan), terminated the employment of Iglesias in violation of section 105(c) because he exercised his statutory rights to make safety complaints to the Mine Safety and Health Administration (MSHA) and to Titan. Currently pending before the Court are the Respondent's Motion to Modify Order of Temporary Economic Reinstatement, filed on July 3, 2017 in Docket No. SE 2015-0105,<sup>1</sup> and the parties' Joint Motion to Approve Settlement and Dismiss filed on August 25, 2017 in Docket No. SE 2015-0234.

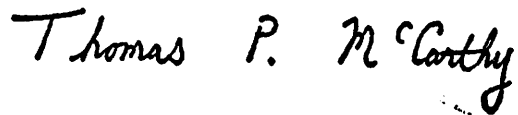
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<sup>1</sup> On December 23, 2014, the Secretary filed an Application for Temporary Reinstatement on behalf of Iglesias, which was docketed before the Commission as Docket No. SE 2015-0105. Respondent did not request a hearing on the Application. Instead, the parties negotiated a settlement of the issues raised by the Application. On February 19, 2015, the Secretary, Respondent, and Complainant filed a Joint Motion to Approve Agreement for Economic Reinstatement. On February 27, 2015, the undersigned issued an Order of Temporary Economic Reinstatement, retroactive to the date of the Secretary's December 23, 2014 Application. Respondent was ordered to economically reinstate Iglesias, as specified in the Joint Motion to

The Secretary's Amended Complaint alleges that on June 25, 2013, Iglesias filed a hazard complaint with MSHA under section 103(g) of the Act; that on October 17, 2014, Iglesias informed his supervisors of safety concerns about damaged energized cables; and that on November 1, 2014, Iglesias informed supervisor Cesar Soriano of safety concerns regarding lockout/tagout. Complaint at ¶ 8. The Amended Complaint further alleges that on or about November 11, 2014, with the agreement of Titan's upper management, Human Resources (HR) manager, Yvette Rodriguez [Hernandez, Tr. 12], and Titan's former production manager, Jeff Harris, fired Iglesias. The Amended Complaint alleges that Hernandez and Soriano knew that Iglesias participated in MSHA's investigation of the hazard complaint, which resulted in an MSHA inspection and five citations for Titan, and that Hernandez and Soriano also knew or suspected that Iglesias filed the hazard complaint. *Id.* at ¶ 10 and 11. Based on the foregoing, the Amended Complaint alleges that Respondent discharged Iglesias because he made a Complaint under the Act and/or caused to be instituted a proceeding under the Act and/or exercised his rights under the Act. *Id.* at ¶ 12.

The parties have filed a Joint Motion to Approve Settlement and Dismiss to resolve both the Motion to Modify Order of Temporary Economic Reinstatement pending in Docket No. SE 2015-0105 and the underlying discrimination claims in Docket No. SE 2015-0234. The parties represented in their Joint Motion that Complainant Iglesias and Respondent have entered into a Confidential Settlement Agreement resolving all issues. The Secretary is not a signatory to the Confidential Settlement Agreement. *Jt. Mot.* at ¶ 6. The Joint Motion also proposes a reduction in the penalties from \$13,100 to \$3,000. I have reviewed the Joint Motion to Approve Settlement and Dismiss. I have reviewed the Confidential Settlement Agreement *in camera*. Following such review, I conclude that the proposed settlement is appropriate under the criteria set forth in section 110(i) of the Act, is in the public interest, and will further the intent and purpose of the Federal Mine Safety and Health Act, as amended.

Accordingly, the parties' Joint Motion is **GRANTED**, and the parties are **ORDERED** to comply with the terms and conditions of both the Joint Motion and the Confidential Settlement Agreement within 30 days of the date of this Order, except as otherwise provided in the Joint Motion and/or the Confidential Settlement Agreement. My Order of Temporary Economic Reinstatement is dissolved as of the date of Iglesias's full reinstatement, per the terms of the Joint Motion approved herein. Upon completion of the terms and conditions of the Joint Motion and the Confidential Settlement Agreement, the above-captioned proceedings are **DISMISSED**.



Thomas P. McCarthy  
Administrative Law Judge

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Approve Agreement for Economic Reinstatement, under the same terms as if Iglesias's employment had not been terminated on November 11, 2014.

Distribution:

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