

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

**OFFICE OF ADMINISTRATIVE LAW JUDGES  
2 SKYLINE, 10th FLOOR  
5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041**

**JUN 25 1981**

**WILLIAM R. JEWETT,** : Complaints of Discharge,  
Complainant : Discrimination, or Interference  
:   
v. : Docket Nos. DENV 79-346-M and  
: CENT **80-204-DM**  
MISSOURI PORTLAND CEMENT COMPANY, :  
Respondent : Kansas City Mine and Plant

**DECISION DISMISSING COMPLAINTS**

Counsel for respondent filed on June 8, 1981, in the above-entitled proceeding a copy of a release signed by complainant. The release states that complainant has released and forever discharged respondent from all suits, actions, causes of actions, damages, claims, or demands, in law or in equity, which complainant ever had, has, or hereafter might have, from the beginning of the world to the present time, with respect to any claims, including those involved in the complaints filed in this proceeding in Docket Nos. DENV 79-346-M and CENT **80-204-DM**.

Complainant's release of all claims made in this proceeding are based on a settlement agreement between him and respondent dated **May 21, 1981**. That settlement agreement shows that respondent agreed to pay complainant **\$3,873.00** and agreed to abide by certain procedural matters in connection with an age discrimination complaint filed by complainant under the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq.

A hearing was scheduled to be held in this proceeding on November 14, 1979, but that hearing was indefinitely continued at complainant's request so that complainant could obtain an attorney to represent him at the hearing. After complainant had decided not to hire an attorney to represent him, the hearing was rescheduled to be held on October **15, 1980**. The hearing was thereafter continued again at complainant's request because he stated that he was engaged in settlement negotiations with respondent. In the order granting the second continuance I specifically stated that complainant would be expected to file a request that his complaints be dismissed if he should reach a settlement with respondent.

On December 17, 1980, respondent's counsel submitted for my approval a draft of a proposed settlement agreement. In a letter dated December 18, 1980, I returned the draft of the settlement agreement after I had signed the draft to indicate that it would be a satisfactory method of discharging the **complaints filed** in this proceeding. About 5 months after I had returned the draft of the settlement agreement, I wrote a letter dated May 11, 1981, in which I requested that an executed copy of the proposed release be sent to me along with a statement by complainant that he wished to have his complaints in this proceeding dismissed on the basis of the settlement agreement.

Complainant ignored the letter of May 11, 1981, but respondent's counsel immediately replied to my letter by submitting on May 18, 1981, a copy of the

settlement agreement and a letter in which he stated that complainant had apparently not yet signed the settlement agreement or release. On June 8, 1981, counsel for respondent submitted a release signed by complainant on January 3, 1981.

Complainant has still not filed a letter requesting that his complaints in this proceeding be dismissed, but the release sent to me by respondent's counsel shows that complainant has released respondent from any claims which could possibly be raised in this proceeding. Therefore, I find that the facts hereinbefore discussed support a conclusion that the complaints filed in this proceeding should be dismissed.

WHEREFORE, for the reasons given above, it is ordered:

The complaints of discharge, discrimination, or interference filed in Docket Nos. DENV 79-346-M and CENT 80-204-DM are dismissed.

*Richard C. Steffey*  
Richard C. Steffey  
Administrative Law Judge  
(Phone: 703-756-6225)

Distribution:

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