

UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD

_____ )		
) )		
SPECIAL COUNSEL, )	DOCKET NUMBER	
Petitioner, )	HQ12068710003	
) )		
v. )		
) )		
JAMES N. HEYEL, )	DATE: <u>NOV 10 1987</u>	
Respondent. )		
) )		
_____ )		

Bruce D. Fong, Esquire, for the petitioner.

Richard D. McCurdy, Esquire, for the respondent.

BEFORE

Daniel R. Levinson, Chairman  
Maria L. Johnson, Vice Chairman  
Dennis M. Devaney, Member

FINAL DECISION AND ORDER

This case is before the Board on a disciplinary action filed by petitioner against respondent charging him with violating 5 U.S.C. § 2302(b) and 5 C.F.R. §§ 4.3 and 330.601. Specifically, respondent, an auditor with the Defense Contract Audit Agency, was charged with influencing a candidate for a position to withdraw from competition in order to improve the prospects of another candidate for employment. The matter was assigned to Chief Administrative Law Judge Edward J. Reidy for disposition and the issuance of a Recommended Decision.

On May 18, 1987, the parties filed a Joint Motion for Approval of Settlement. That submission urged approval of a settlement agreement reached by the parties, in which respondent waived his right to a hearing and admitted to certain facts as alleged by petitioner. In the agreement, respondent also admitted that these facts, as stipulated, constituted a violation of 5 U.S.C. § 2302(b)(5) as charged. In exchange for these admissions and respondent's agreement to pay a \$1000.00 civil fine, petitioner agreed to drop the charges based on alleged violations of 5 C.F.R. §§ 4.3 and 330.601. On May 22, 1987, Judge Reidy issued a Recommended Decision recommending that the Board accept and approve the settlement agreement. Neither party filed exceptions to the Recommended Decision.

The Board, as a matter of policy, favors the settlement of disputes. Judge Reidy has found that acceptance of the settlement would serve justice as well as the interest of judicial economy. Judge Reidy has also examined the penalty the parties have agreed upon in light of the factors set out in *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981), and found it reasonable under the circumstances.

Accordingly, we hereby ADOPT the Recommended Decision, by which we APPROVE the settlement agreement which is incorporated by reference into this Final Decision and Order. The parties are hereby ordered to comply with the terms of the settlement agreement. The parties shall submit evidence of such compliance within 60 days of the date of


this decision. This is the final decision of the Merit Systems Protection Board in this case.

NOTICE TO RESPONDENT

You may obtain judicial review of this Final Decision and Order in an appropriate Court of Appeals. See 5 U.S.C. § 1207(c).

FOR THE BOARD:

Washington, D.C.

  
Robert E. Taylor  
Clerk of the Board