

**UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD  
NORTHEASTERN REGIONAL OFFICE**

THERESE G. WOLF,  
Appellant,

DOCKET NUMBER  
PH-0707-15-0089-J-1

v.

DEPARTMENT OF VETERANS  
AFFAIRS,  
Agency.

DATE: December 5, 2014

Bonnie Brownell, Esquire, Christopher Landrigan, Esquire, Samantha Basso, Washington, D.C., for the appellant.

Hansel Cordeiro, Esquire and Kimberly Perkins McLeod, Esquire, Washington, D.C., Michael E. Anfang, Esquire, Kansas City, Missouri, and Nicholas E. Kennedy, Esquire, Huntington, West Virginia, for the agency.

**BEFORE**

William L. Boulden  
Chief Administrative Judge

**FINAL DECISION**

On November 19, 2014, appellant, a former career, non-probationary Senior Executive Service (SES) Healthcare Administrator (Medical Center Director), for the Department of Veterans Affairs (VA's) Pittsburgh Healthcare System (VAPHS), timely filed an appeal from her November 12, 2014 removal. Appeal File (AF), Tab 1. The Board has jurisdiction under 38 U.S.C. § 713(d)(2)(A), (g)(1)(A) and 5 U.S.C. § 7701. *See* 5 C.F.R. §§ 1210.1, 1210.2(a). The appeal received expedited review as required by 38 U.S.C.

§ 713(e). *See* 38 U.S.C. § 713(e)(2); 5 C.F.R. §§ 1210.1(d), 1210.20(b). For the following reasons, the appeal is DISMISSED as settled.

On December 3, 2014, the parties submitted by email message their signed settlement agreement, dated on December 3<sup>rd</sup>. I have scanned the agreement and placed it in the record at AF, Tab 19.

I held a status teleconference on December 3<sup>rd</sup> to confirm that, although the agreement was not signed by counsel for either side, it was, in fact, their agreement. I also advised them that although appellant is at least 50 years of age, because she did not allege age discrimination, it was not necessary that the agreement contain an Age Discrimination in Employment Act waiver. Finally, we discussed that the agreement's confidentiality clause applied to the fact of, as well as the terms of, the agreement. Therefore, the agreement and this decision will be password protected in the Board's systems and SEALED.

### **SETTLEMENT**

The parties entered into a settlement agreement which has been incorporated into the Board's record for enforcement purposes. The Board favors settlement agreements between the parties as they avoid unnecessary litigation and encourage a fair resolution of all issues raised by an appeal.

The Board will accept a settlement agreement into the record and enforce its terms if the following requirements are met: (1) The Board must have jurisdiction over the matter; (2) the agreement must be lawful on its face and freely reached by the parties; and (3) the parties must understand the terms of the agreement and agree that it is to be enforceable by the Board. *See Littlejohn v. Department of Housing & Urban Development*, 47 M.S.P.R. 331, 332 (1991), *modified by Stewart v. U.S. Postal Service*, 73 M.S.P.R. 104, 107 (1997).

I find that all of these conditions have been met in this case. I have reviewed the terms of the settlement agreement and find it voluntarily entered into, understood by the parties, and lawful on its face. Consequently, the

agreement will be accepted as dispositive of the appeal. *See Whatley v. Department of the Air Force*, 76 M.S.P.R. 25, 26 (1997). Because the parties desire to make the settlement agreement enforceable by the Board, it has been formally entered and accepted into the record for enforcement purposes. *See Dye v. U.S. Postal Service*, 58 M.S.P.R. 605, 606 (1993).

### **DECISION**

The appeal is DISMISSED as settled.

FOR THE BOARD:

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William L. Boulden  
Chief Administrative Judge

### **NOTICE TO APPELLANT**

Pursuant to 38 U.S.C. § 713(e)(2), this decision is final and not subject to any further appeal.

### **ENFORCEMENT**

The settlement agreement has been made part of the record. If you believe there has not been full compliance with the terms of the agreement, you may ask the Board to enforce the agreement by filing a petition for enforcement with this office.

Your petition for enforcement must describe specifically the reasons why you believe there is noncompliance. It must include the date and results of any communications regarding compliance, and a statement showing that a copy of the petition was either mailed or hand-delivered to the agency.

Any petition for enforcement must be filed within a reasonable period of time after you discover the asserted noncompliance. If you believe that your petition is filed late, you should include a statement and evidence showing good cause for the delay and a request for an extension of time for filing.