

**U.S. Department of Labor**

Administrative Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



**IN THE MATTER OF:**

**MADELINE LEARY,**

**ARB CASE NO. 2024-0037**

**COMPLAINANT,**

**ALJ CASE NO. 2020-ACA-00005**

**ALJ JERRY R. DEMAIIO**

**v.**

**DATE: July 1, 2024**

**PRIME MARKETING OF AMERICA  
D/B/A ROCKY MOUNTAIN HIGH,**

**and**

**COMPASSIONATE CARE GIVERS,  
INC.,**

**RESPONDENTS.**

**Appearances:**

***For the Complainant:***

**Paula Greisen, Esq., and Scott Medlock, Esq.; *Greisen Medlock, LLC*;  
Denver, Colorado**

**Meredith A. Munro, Esq.; *Munro Law, LLC*; Denver, Colorado**

***For the Respondent:***

**Kristin R.B. White, Esq., and Micah D. Dawson, Esq.; *Fisher &  
Phillips LLP*; Denver, Colorado**

**Before HARTHILL, Chief Administrative Appeals Judge, and ROLFE,  
Administrative Appeals Judge**

**DECISION AND ORDER APPROVING SETTLEMENT, DENYING MOTION  
TO SEAL, AND DISMISSING CASE WITH PREJUDICE**

PER CURIAM:

This case arises under the employee protection provisions of the Patient Protection and Affordable Care Act (ACA).<sup>1</sup> On April 10, 2024, Respondents Prime Marketing of America, Inc. d/b/a Rocky Mountain High and Compassionate Care Givers, Inc. (Respondents) filed a Petition for Review with the Administrative Review Board (Board) of Administrative Law Judge Jerry R. DeMaio's Decision and Order, issued March 28, 2024.

On June 13, 2024, the parties filed a Joint Motion to File Settlement Agreement Under Seal and For Approval (First Joint Motion), notifying the Board of a finalized settlement in the matter and requesting the Board allow the settlement to be filed under seal "to preserve the confidentiality of the Parties' agreement, and to protect Respondents' confidential business practices."<sup>2</sup> On June 20, 2024, the Board issued an Order denying the seal request as premature because the parties did not submit the Settlement Agreement (Agreement).

On June 27, 2024, the parties filed a Joint Motion to File Settlement Agreement Under Seal and For Approval (Second Joint Motion). In the Second Joint Motion, the parties request approval of the Agreement, attaching a fully executed copy of the Agreement. The parties also request the Board allow the settlement to be filed under seal, "to preserve the confidentiality of the Parties' agreement, and to protect Respondents' confidential business practices."<sup>3</sup>

The ACA's implementing regulations provide that at any time after a party has filed objections to the Assistant Secretary's findings or order, the case may be settled if the participating parties agree to a settlement and, if the Board has accepted the case for review, the Board approves the settlement agreement.<sup>4</sup>

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<sup>1</sup> 29 U.S.C. § 218c, as implemented by 29 C.F.R. Part 1984 (2023).

<sup>2</sup> First Joint Motion at ¶ 5.

<sup>3</sup> Second Joint Motion at ¶ 5.

<sup>4</sup> 29 C.F.R. § 1984.111(d)(2).

The Agreement encompasses the settlement of matters under laws other than the ACA. The Board’s authority over settlement agreements is limited to statutes that are within the Board’s jurisdiction as defined by the applicable delegation of authority.<sup>5</sup> Therefore, we have restricted our review of the Agreement to ascertaining whether its terms fairly, adequately, and reasonably settle this ACA case over which we have jurisdiction.<sup>6</sup>

The Agreement also provides that it shall be interpreted under the laws of the State of Colorado.<sup>7</sup> We construe this “Applicable Law” provision as not limiting the authority of the Secretary of Labor, the Board, and any federal court with regard to any issue arising under the ACA, which authority shall be governed in all respects by the laws and regulations of the United States.<sup>8</sup>

After careful review of the Agreement, the Board concludes that the Agreement is fair, adequate, and reasonable, and does not contravene the public interest.

With regard to the motion to seal the Agreement, “[a] party seeking to seal judicial records must specify facts that causally connect the documents at hand to sufficiently compelling reasons that justify overriding the strong presumption favoring public access.”<sup>9</sup> The Second Joint Motion does not identify any specific provisions that contain “confidential business practices,” explain why the parties’ wish to “preserve the confidentiality of the Parties’ agreement” outweighs the presumption of public access, or otherwise present any compelling reasons why the

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<sup>5</sup> Secretary’s Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board (Secretary’s discretionary review of ARB decisions)), 85 Fed. Reg. 13186 (Mar. 6, 2020); see *Hendrix v. CSX Transp., Inc.*, ARB No. 2023-0033, ALJ No. 2020-FRS-00076, slip op. at 2 (ARB July 13, 2023) (citations omitted).

<sup>6</sup> See *Hendrix*, ARB No. 2023-0033, slip op. at 2 (citation omitted).

<sup>7</sup> Agreement at ¶ 20.

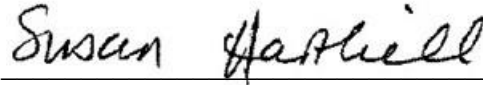
<sup>8</sup> *Hendrix*, ARB No. 2023-0033, slip op. at 4 (citation omitted).

<sup>9</sup> *Furlong-Newberry v. Exotic Metals Forming Co.*, ARB No. 2022-0017, ALJ No. 2019-TSC-00001, slip op. at 26 (ARB Nov. 9, 2022) (citations omitted). These standards are consistent with the Office of Administrative Law Judges’ Rules of Practice and Procedure; although a judge may order any material that is in the record to be sealed from public access, such an order “must state findings and explain why the reasons to seal adjudicatory records outweigh the presumption of public access.” 29 C.F.R. § 18.85(b)(1), (2).

Agreement should be sealed.<sup>10</sup> Without such, the Board is left without any factual basis for maintaining allegedly confidential material under seal.

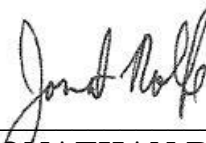
Accordingly, we **APPROVE** the Agreement, **DENY** the motion to seal the Agreement, and **DISMISS** the complaint with prejudice.

**SO ORDERED.**



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**SUSAN HARTHILL**  
**Chief Administrative Appeals Judge**



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**JONATHAN ROLFE**  
**Administrative Appeals Judge**

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<sup>10</sup> Second Joint Motion at ¶ 5. Paragraph 11 of the Agreement lists several general categories of proprietary, confidential, or trade secret information that Complainant may have had access to but does not identify or reveal any specific information.