



**In the Matter of:**

**LINWOOD ESTES,**

**ARB CASE NO. 06-103**

**COMPLAINANT,**

**ALJ CASE NO. 2005-STA-0028**

**v.**

**DATE: March 5, 2007**

**FIRST EXPRESS, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**FINAL DECISION AND ORDER APPROVING SETTLEMENT  
AND DISMISSING COMPLAINT WITH PREJUDICE**

This case arises under Section 405, the employee protection provision of the Surface Transportation Assistance Act (STAA) of 1982.<sup>1</sup> On May 9, 2006, the parties submitted a Settlement Agreement and Release signed by the Complainant, Linwood Estes, and the Respondent, First, Express, Inc., to a Department of Labor Administrative Law Judge (ALJ). Under the regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's preliminary findings "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ."<sup>2</sup> The regulations direct the parties to file a copy of the settlement "with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be."<sup>3</sup>

When the parties reached a settlement the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On May 15, 2006, the ALJ issued a Recommended Decision and Order Approving Settlement and Dismissing Complaint with prejudice. According to the STAA's implementing

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<sup>1</sup> 49 U.S.C.A. § 31105 (West 2006).

<sup>2</sup> 29 C.F.R. § 1978.111(d)(2) (2006).

<sup>3</sup> *Id.*

regulations, the Administrative Review Board (ARB or Board) issues the final decision and order in this case.<sup>4</sup>

The Board issued a Notice of Review and Briefing Schedule apprising the parties of their right to submit briefs supporting or opposing the ALJ's recommended decision on May 23, 2006.<sup>5</sup> Estes did not respond to the Board's notice; First Express advised the Board that the company did not wish to file a brief. We therefore deem settlement unopposed under the terms of the Recommended Decision and Order Approving Settlement Agreement.

Review of the agreement reveals that it may encompass the settlement of matters under laws other than the STAA.<sup>6</sup> The Board's authority over settlement agreements is limited to the statutes that are within the Board's jurisdiction as defined by the applicable statute. Therefore, we approve only the terms of the agreement pertaining to the Complainant's STAA claim ARB No. 06-103, 2005-STA-0028.<sup>7</sup>

The Board notes that the settlement includes a confidentiality agreement at paragraph 7. The parties are on notice that the agreement becomes part of the record of the case and is subject to the Freedom of Information Act (FOIA).<sup>8</sup> Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of such requests, and for protecting the interests of submitters of confidential commercial information.<sup>9</sup>

The Board finds that the settlement is fair, adequate and reasonable and in the public interest. Accordingly, with the reservations noted above limiting our approval to

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<sup>4</sup> 29 C.F.R. § 1978.109(c)(2); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001).

<sup>5</sup> 29 C.F.R. § 1978.109(c)(2).

<sup>6</sup> Settlement Agreement and Release para. 3, 5.

<sup>7</sup> *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003).

<sup>8</sup> 5 U.S.C.A. § 552 (West 2006).

<sup>9</sup> 29 C.F.R. § 70 *et seq.* (2006).

the settlement of Estes's STAA claim, we **APPROVE** the agreement and **DISMISS** the complaint with prejudice.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**DAVID G. DYE**  
**Administrative Appeals Judge**