

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK DIVISION

ANTHONY K. LINCOLN,

Plaintiff,

v.

FIRST EXPRESS, INC.,

Defendant.

Civil Action No.05-2742 (WJM)

CONSENT DECREE

This matter is before the Court for entry of this judgment by consent of all parties to effectuate a compromise and settlement of all claims. After review and consideration, the Court believes that entry of this judgment is in the interest of justice.

1. Plaintiff, Anthony K. Lincoln ("Lincoln"), commenced this action in the United States District Court for the District of New Jersey, Newark Division, alleging that Defendant First Express, Inc. ("First Express") violated the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") by denying Lincoln prompt reemployment and the wages Lincoln would have earned from such prompt reemployment, after his completion of active military service in the uniformed services.

2. As a result of settlement discussions, Lincoln and First Express have resolved their differences and have agreed that this action should be settled by entry of this Consent Decree. It is the intent of the parties that this Consent Decree be a final and binding settlement in full disposition of any and all claims alleged against First Express that could have been alleged in

the Complaint filed on behalf of Lincoln. Lincoln, by his signature to this document and the attached release, has indicated his acceptance of the terms and conditions contained in this Consent Decree.

#### STIPULATED FACTS

3. Pursuant to USERRA, the parties acknowledge the jurisdiction of the United States District Court for the District of New Jersey (Newark Division) over the subject matter of this action and of the parties to this case for the purpose of entering this Decree and, if necessary, enforcing this Decree.

4. Venue is proper in this district for purposes of this Decree and any proceedings related to this Decree only. First Express agrees that all statutory conditions precedent to the institution of this lawsuit have been fulfilled.

#### FINDINGS

5. Having examined the terms and provisions of the Consent Decree, the Court finds the following:

- a. The Court has jurisdiction over the subject matter of this action and the parties to this action.
- b. The terms and provisions of this Consent Decree are fair, reasonable, and just. The rights of Lincoln and First Express are protected adequately by this Decree.
- c. This Consent Decree conforms with the Federal Rules of Civil Procedure and USERRA, and is not in derogation of the rights and privileges of any person. The entry of this Consent Decree will further the objectives of the USERRA and other applicable law, and will be in the best interests of the parties.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

**NON-ADMISSION**

6. This Decree, being entered with the consent of the United States Department of Justice – Civil Rights Division, Lincoln, and First Express, shall not constitute an adjudication or finding on the merits of the case and shall not be construed as an admission by First Express of any violations of USERRA, or any other law, rule or regulation dealing with or in connection with equal employment opportunities.

**NON-RETALIATION**

7. First Express shall not take any action against any person that constitutes retaliation or interference with the exercise of such person's rights under USERRA, or Lincoln's claim herein that forms the basis for the present case, or because such person gave testimony or assistance or participated in any manner in any investigation or proceeding in connection with this case.

**REMEDIAL REQUIREMENTS**

8. First Express shall grant Lincoln compensation that he would have earned had he been promptly reemployed by First Express on or about June 22, 2004, through on or about August 18, 2004, when he was finally allowed to return to work, in the amount of \$3,740.00. First Express shall mail or hand deliver a certified check, made payable to Anthony K. Lincoln, to the following attorney no later than fourteen (14) days after this Consent Decree has been entered by the Court:

Maria H. Rios  
United States Department of Justice  
950 Pennsylvania Avenue NW  
Civil Rights Division  
Employment Litigation Section, PHB, Room 4500  
Washington, D.C. 20530

**MISCELLANEOUS**

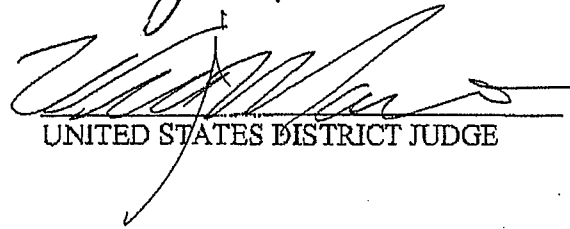
9. All parties shall bear their own costs and expenses of litigation, including attorneys' fees.
10. This Consent Decree constitutes the entry of final judgment within the meaning of Rule 54 of the Federal Rules of Civil Procedure on all claims asserted in or that could have been asserted by Lincoln in this action. The Court retains jurisdiction over this matter, however, for the purpose of entering appropriate orders interpreting and enforcing this judgment.
11. The terms of this Consent Decree are and shall be binding upon the present and future owners, officers, directors, employees, creditors, agents, trustees, administrators, successors, representatives, and assigns of First Express and upon the heirs, successors, and assigns of Lincoln.
12. This Consent Decree constitutes the entire agreement and commitments of the parties. Any modifications to this Decree must be mutually agreed upon and memorialized in a writing signed by Lincoln and First Express.

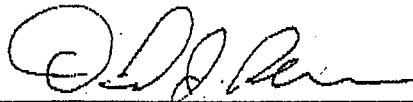
**EFFECTIVE DATE**

13. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.
14. This Consent Decree shall expire, and this action shall be dismissed, without

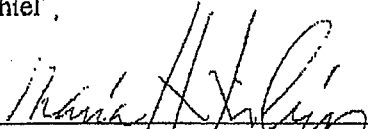
further order of this Court three months from the date of entry of this Consent Decree. Lincoln, by and through his attorneys, may move, for good cause, to extend the Consent Decree if the remedial relief called for herein has not been effectuated. The Consent Decree will not be extended, however, unless the Court grants Lincoln's motion. Any such extension may be granted by the Court only for such time as is necessary to effectuate the relief set forth in this Consent Decree.

APPROVED and ORDERED this 28<sup>th</sup> day of July, 2005.

  
UNITED STATES DISTRICT JUDGE



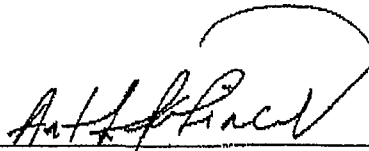
DAVID J. PALMER (DC Bar No. 417834)  
Chief,



WILLIAM B. RENTON (DC Bar No. 414990)  
Deputy Chief

MARIA H. RIOS (PR Bar No. 10908)  
Senior Trial Attorney  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
950 Pennsylvania Avenue, NW  
Patrick Henry Building, Room 4914  
Washington, DC 20530  
Telephone: (202) 616-9750  
Facsimile: (202) 514-1005

CHRISTOPHER J. CHRISTIE  
United States Attorney



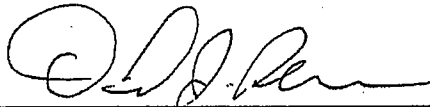
ANTHONY K. LINCOLN  
On behalf of Plaintiff Anthony K. Lincoln

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APPROVED and ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

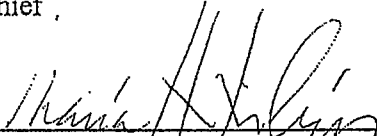
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UNITED STATES DISTRICT JUDGE



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DAVID J. PALMER (DC Bar No. 417834)  
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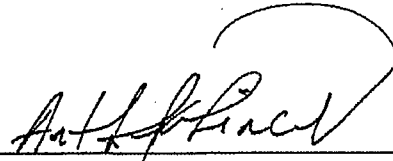


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WILLIAM B. FENTON (DC Bar No. 414990)  
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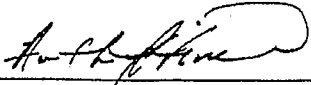
CHRISTOPHER J. CHRISTIE  
United States Attorney



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ANTHONY K. LINCOLN  
*On behalf of Plaintiff Anthony K. Lincoln*



Signature:   
Anthony K. Lincoln

Date: June 23, 2005

Subscribed and sworn to before me this 23<sup>rd</sup> day of June  
2005

  
Notary Public

My Commission expires: April 1, 2006

**ANNALEE D. PRIOLO**  
Notary Public, State of New York  
No. 01PR5058233  
Qualified in New York County  
Commission Expires April 1, 2006

2006

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