



**Issue Date: 13 June 2018**

Case Nos.: 2018-AIR-00018

In the Matter of:

**DAVID BINGHAM**

Complainant

v.

**LIFE FLIGHT NETWORKS**

Respondent

**ORDER APPROVING SETTLEMENT AND DISMISSING CLAIM**

This matter arises under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR 21"), which was signed into law on April 5, 2000. The Act includes a whistleblower protection provision, with a Department of Labor complaint procedure.<sup>1</sup> Implementing regulations are at 29 C.F.R. Part 1979, published at 68 Fed. Reg. 14,107 (Mar. 1, 2003).

On June 8, 2018,<sup>2</sup> the parties submitted a Joint Motion to Approve Settlement Agreement and Seal Certain Information. The submission includes a full copy of the executed Settlement Agreement, which the parties request be placed under seal, and a redacted version of the Settlement Agreement, which the parties request be filed in the public record.

This Tribunal finds that the proposed Settlement Agreement is proper, and approves it with two caveats. First, the language in this agreement purports to settle, release, or otherwise address claims or potential claims that far exceed the statute involved in this action. *See* Paragraphs 4, 8, 9, 20. The Tribunal limits its review to the asserted whistleblower claims only, as anything beyond that limitation exceeds this Tribunal's jurisdiction.

Second, this Tribunal ORDERS the unredacted Settlement Agreement to be sealed per the parties' request. The Tribunal has previously informed the parties and now restates that the records of this Tribunal are subject to the Freedom of Information Act ("FOIA") and are generally available to the public.

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<sup>1</sup> Pub. L. 106-181, tit. V, § 519(a), Apr. 5, 2000, 114 Stat. 145. *See* 49 U.S.C. § 42121.

<sup>2</sup> The parties submitted an earlier settlement agreement on May 18, 2018, but the parties replaced that version which is the one referenced above.

This Office will place the unredacted Settlement Agreement in a sealed envelope within the public file. A copy of this Order will be affixed to this envelope. The redacted copy of the Settlement Agreement will be placed in the public file. Per 29 C.F.R. §18.85(b), this Tribunal specifically finds that Paragraph 2 of the Settlement Agreement contains confidential commercial and financial information.

In the event that a request is made for access to the unredacted copy of the Settlement Agreement, the Department of Labor will provide the parties with pre-disclosure notification and an opportunity to respond before any disclosure is made. *See* 29 C.F.R. § 70.26. However, the parties are reminded that the pre-disclosure notice procedure does not, in any way, constitute a finding that the Settlement Agreement, or any portion thereof, will be exempt from disclosure under FOIA. Similarly, this procedure does not suggest that the appropriate disclosure officer would ultimately decline disclosure of the settlement agreement to the FOIA requester, if such a FOIA request were received. *See* 29 C.F.R. § 70.26(f).

#### Order

1. The parties' requests to approve their Settlement Agreement and dismiss their AIR 21 claim are GRANTED. **However, the parties are advised that this Tribunal does not bind the parties to the provisions in Paragraphs 4, 8, 9, and 20 that are beyond its jurisdiction.**
2. The proposed Settlement Agreement is fair and reasonable as to the claims under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century. None of the terms are against the public interest. The proposed Settlement Agreement is APPROVED, and the parties are ORDERED to comply with its terms.

This matter is DISMISSED with prejudice. The scheduled July 30, 2018 hearing in this matter is hereby CANCELLED.

SO ORDERED

**SCOTT R. MORRIS**  
Administrative Law Judge

Cherry Hill, New Jersey