

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is entered into by and between The Washington University (the "Respondent") and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section ("IER") (together, "the Parties").

I. BACKGROUND

WHEREAS, on April 14, 2022, IER accepted as complete a charge filed pursuant to 8 U.S.C. § 1324b(b)(1) by [REDACTED] ("Charging Party") against Respondent, DJ# 197-42-40 (the "IER Charge"), alleging citizenship status discrimination in violation of the unfair immigration-related employment practices provisions of 8 U.S.C. § 1324b ("Act");

WHEREAS, IER's investigation of the IER Charge (the "Investigation") determined that there is reasonable cause to believe that Respondent discriminated against the Charging Party, an individual granted asylum status, because of his citizenship status in violation of 8 U.S.C. § 1324b(a)(1) when it repeatedly confronted him about his immigration status, work authorization documentation, and right to work, even after Respondent acknowledged that the Charging Party had satisfied the Form I-9 requirements, because he checked the box indicating non-citizen authorized to work status on the Form I-9, indicated that his work authorization would not expire, and provided documentation that Respondent knew was sufficient for the Form I-9 but did not prove the Charging Party's particular status; and retaliated against him when it terminated his employment for complaining about Respondent's conduct, in violation of 8 U.S.C. § 1324b(a)(5);

WHEREAS, Respondent does not admit and strictly denies that it discriminated against Respondent in violation of 8 U.S.C. § 1324b(a)(1) or that it retaliated against Charging Party in any way, including, but not limited to, by terminating his employment for complaining about Respondent's conduct in violation of 8 U.S.C. § 1324b(a)(5), or that it violated any other law, or that it committed any wrongdoing, including the allegations in IER's Notice of Investigation. Respondent believes it acted in good faith in dealing with the Charging Party and that any inquiries made to the Charging Party were lawful and appropriate;

WHEREAS, the Parties wish to resolve the IER Investigation without further delay or expense, and to avoid the cost of litigation, and hereby acknowledge that they are voluntarily entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained below and to fully and finally resolve the Investigation as of the date of the latest signature below, the Parties agree as follows:

II. TERMS OF SETTLEMENT

1. This Agreement becomes effective as of the date of the latest signature on the dually-signed Agreement, which date is considered to be and referenced herein as the “Effective Date.” The “term of this Agreement” is defined as and shall be two years following the Effective Date.
2. Respondent shall pay civil penalties to the United States Treasury in the amount of \$4,465.00, in accordance with the process described in paragraph 3.
3. Respondent shall provide IER with the name, job title, email address, and telephone number of the individual responsible for effectuating payment of the civil penalty no later than three business days from the Effective Date. Respondent shall pay the monies discussed in paragraph 2 via the FedWire electronic fund transfer system within 10 business days of receiving fund transfer instructions from IER. On the day of payment, Respondent shall send confirmation of the payment to william.hanrahan@usdoj.gov and IER@usdoj.gov. The email confirming payment shall have Respondent’s name and the investigation number, DJ # 197-42-40, in the subject line.
4. IER shall provide Respondent with the Charging Party’s email address and mailing address. Within 15 days of receiving that information, Respondent shall email the necessary tax form(s) and the release in the form of Attachment A to the Charging Party and CC william.hanrahan@usdoj.gov on that email. Within 30 days of receipt of Charging Party’s mailing address and completed tax form(s), completed payroll payment processing form, and a signed release of Charging Party’s claims in the form of Attachment A to this Agreement, Respondent shall pay Charging Party \$3,264 in back pay, plus interest calculated at the IRS underpayment rate, compounded daily through the Effective Date, less any withholding required by law. Respondent shall remit the payment described above using a domestic ACH transfer. On the day of payment, Respondent shall confirm via email to William Hanrahan at william.hanrahan@usdoj.gov and IER@usdoj.gov that payment was made and attach documentary evidence of such payment.
5. Within 60 calendar days after remitting the Charging Party’s W-2 form for calendar year 2024 to the Social Security Administration under IRS regulations, and pursuant to the provisions of IRS Publication 957, Respondent shall file a special report to the Social Security Administration allocating the payment made to the Charging Party in paragraph 4 to the appropriate periods in 2022. On the day Respondent submits the documentation, Respondent shall confirm via email to William Hanrahan at william.hanrahan@usdoj.gov and IER@usdoj.gov that such documentation was submitted and provide a copy of such documentation.
6. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between the Parties related to the (1) Charging Party, (2) the IER Charge, and (3) the resulting Investigation, DJ # 197-42-40, through the Effective Date. The

provisions of paragraph 2 notwithstanding, IER shall not seek from Respondent any additional civil penalty for the citizenship status discrimination and retaliation in violation of 8 U.S.C. § 1324b that is the subject of the Investigation (DJ # 197-42-40) through the Effective Date.

7. Respondent shall not:
 - a. Discriminate on the basis of citizenship status or national origin in violation of 8 U.S.C. § 1324b; or
 - b. Intimidate, threaten, coerce, or retaliate against any person for his or her participation in this matter or the exercise of any right or privilege secured by 8 U.S.C. § 1324b.
8. Within 10 business days of the Effective Date, Respondent shall transmit via e-mail to Charging Party's supervisor and all employees who implement employment eligibility verification policies (collectively, "I-9 Personnel") the IER fact sheet "Information for Employers About Citizenship Status Discrimination" available at <https://www.justice.gov/crt/page/file/1080256/download>, the fact sheet "Unlawful Employment Discrimination Based on Citizenship and National Origin" available at <https://www.justice.gov/crt/page/file/1132631/download>, and the fact sheet "How to Avoid Discrimination When Hiring Refugees and Asylees" available at <https://www.justice.gov/media/989476/dl?inline>. Within 10 business days of receipt of such information, I-9 Personnel shall acknowledge in writing that they have read the IER materials, and Respondent shall, upon IER's request, provide copies of the written acknowledgments to IER.
9. Within 90 calendar days of the Effective Date, Respondent shall provide to IER for review, employment policies, including employment eligibility verification procedures ("I-9 procedures") that:
 - a. Prohibit discrimination on the basis of national origin or citizenship status in the recruiting, hiring, and firing processes, where such discrimination is prohibited by 8 U.S.C. § 1324b;
 - b. Require Respondent to (i) honor all EEV documentation that satisfies the requirements of 8 U.S.C. § 1324a(b) and reasonably appears to be genuine and to relate to the person presenting it; (ii) not request more or different documentation than required by law for EEV; (iii) not request specific documentation for EEV; and (iv) permit all employees to present their choice of valid document(s) for EEV, including for reverification when reverification is required by law.
 - c. Prohibit asking questions during or associated with the recruiting or hiring process that would constitute discrimination in violation of 8 U.S.C. § 1324b;

- d. Include citizenship status as a prohibited basis of discrimination in any Equal Employment Opportunity (EEO) printed or electronic postings Respondent provides to the public or employees;
- e. For any applicants and employees who raise allegations to Respondent's Human Resources department of discrimination in the hiring, firing, or Form I-9 employment eligibility verification and reverification process, which, if true, could reasonably violate 8 U.S.C. § 1324b, Respondent shall, in addition to any internal investigations it may undertake concerning the complaint, promptly direct the affected individual to the IER Poster (which is defined below); and
- f. Prohibit any reprisal action against an employee or prospective employee for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, for exercising any right or privilege secured by 8 U.S.C. § 1324b, or for filing any charge, or participating in a lawful manner in any investigation or action under 8 U.S.C. § 1324b.

Within 10 calendar days of IER's notice to Respondent that IER's review is complete, Respondent shall implement the revised employment policies or I-9 procedures, if any, and any such revised policies or I-9 procedures shall be shared with Respondent's Human Resources department personnel.

- 10. Within 60 calendar days of the Effective Date, Respondent shall update its Employment Eligibility Verification (EEV) training and materials to reflect any new/revised policies or procedures required by this Agreement, including an explicit explanation that the fourth category box in the attestation of Section 1 of the Form I-9 includes individuals who are employment authorized indefinitely and have the option of inserting N/A for the expiration date of their employment authorization; and who may provide an unrestricted Social Security card in combination with an acceptable List B document.
- 11. Within 30 calendar days, Respondent shall replace its posted IER's "You Have The Right To Work" Poster ("IER Poster") with IER's most recent version, available at <https://www.justice.gov/media/1041231/dl?inline>; including replacing all references to the "Office of Special Counsel for Immigration-Related Unfair Employment Practices with the "Immigrant and Employee Rights Section (IER)" and on a yearly basis check for any available updated versions.
- 12. During the term of this Agreement, should Respondent revise its employment policies or I-9 Procedures in any way that materially alters language relating to discrimination under 8 U.S.C. § 1324b, then Respondent shall provide such revised policies or procedures to the IER for review at least 30 calendar days prior to the proposed effective date of such revised policies or procedures.

13. Respondent shall provide all I-9 Personnel with training on their obligation to comply with 8 U.S.C. § 1324b, as follows:
 - (a) Within 90 calendar days of the Effective Date, all I-9 Personnel shall complete an IER-approved webinar or recorded training.
 - (b) During the term of the Agreement, all I-9 Personnel who are hired or take on these responsibilities after Respondent complies with the training obligations in 13(a), shall view a recorded version of the training within 60 calendar days of hire or promotion.
 - (c) Respondent will pay all employees their normal rate of pay during the training, and the training will occur during their normally scheduled workdays and work hours. Respondent shall bear all of its own costs associated with these training sessions.
 - (d) Respondent shall compile attendance records listing the individuals who attend the trainings described in this paragraph, including the individual(s)'s full name, job title, office location, signature, and the date of the training, and make such records available to IER upon request.
14. During the term of this Agreement, IER reserves the right to make such reasonable inquiries as it, in its discretion, believes necessary or appropriate to assess Respondent's compliance with this Agreement, including but not limited to, requiring written reports from Respondent at IER's specific request, concerning Respondent's compliance; requesting relevant non-privileged documents related to such compliance; and, upon reasonable notice to Respondent if required by law, interviewing Respondent's employees, officials, or other persons.
15. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 within three business days pursuant to 8 C.F.R. § 274a.2(b)(2)(ii). Respondent shall, at IER's discretion, provide data fields from such documents in Excel spreadsheet format unless requested otherwise.
16. If IER has reason to believe that Respondent is in violation of any provision of this Agreement, IER may, in its sole discretion, notify Respondent of the purported violation rather than initiate a new investigation or seek to judicially enforce the Agreement. If IER has exercised its discretion to notify Respondent of the purported violation, Respondent shall have 30 calendar days from the date IER notifies it of the purported violation(s) to either: (1) demonstrate to the IER that no violation occurred or (2) cure the violation(s) to IER's satisfaction.
17. This Agreement does not affect the right of any individual to file a charge under the Act alleging an unfair immigration-related employment practice against Respondent, IER's authority to investigate Respondent or file a complaint on

behalf of any such individual, or IER's authority to conduct an independent investigation of Respondent's employment practices occurring after the Effective Date or outside of the scope of the Investigation.

III. ADDITIONAL TERMS OF SETTLEMENT

18. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the subject matter herein. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by both Parties and shall not be construed against any one party in the event of a subsequent dispute concerning the terms of the Agreement. The Parties agree that the paragraphs set forth in Part II of this Agreement (entitled "Terms of Settlement") are material terms, without waiver of either party's right to argue that other terms in the Agreement are material.
19. The United States District Court for the Eastern District of Missouri shall be the preferred venue for enforcement of any claims over which that court has subject matter jurisdiction. Otherwise, a party must bring any claim or counterclaim to enforce the agreement in a court of competent jurisdiction. This provision does not constitute a waiver of sovereign immunity or any other defense the United States might have against a claim for enforcement or counterclaims asserted against it.
20. The Parties agree that, as of the Effective Date of this Agreement, litigation concerning the alleged violations of 8 U.S.C. § 1324b is not reasonably foreseeable. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to this matter, the party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Agreement.
21. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected and the term or provision shall be deemed not to be a part of this Agreement. The Parties will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.
22. The Parties shall bear their own costs, attorneys' fees, and other expenses incurred in this investigation.
23. This Agreement, and its terms and recitations, do not constitute an admission by Respondent of any act in violation of 8 U.S.C. § 1324b.
24. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement.

The Parties shall be bound by facsimile or other electronically transmitted signatures.

The Washington University

By: 

Dated: 4/15/24

Name: SCOT R. BEMIS

Immigrant and Employee Rights Section

By: 
Alberto Ruisanchez
Deputy Special Counsel

Dated: 4-16-2024

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