

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into by and between **BreakthroughFuel, LLC** (“Respondent”), and the **United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section** (“IER”) (together, “the Parties”).

I. BACKGROUND

WHEREAS, on May 6, 2022, IER accepted as complete a charge (the “IER Charge”) filed by Charging Party [REDACTED] (“Charging Party”), DJ# 197-85-82, alleging that Respondent violated the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b, when it refused to hire him based on his citizenship status;

WHEREAS, on May 13, 2022, IER notified Respondent that it had initiated an investigation (“Investigation”) based on Charging Party’s allegations to determine whether Respondent had engaged in any conduct in violation of 8 U.S.C. § 1324b(a)(1);

WHEREAS, based upon the Investigation, IER concluded that there is reasonable cause to believe that in March 2022, Respondent engaged in discrimination in violation of 8 U.S.C. § 1324b(a)(1) by refusing to hire the Charging Party because he was not a U.S. citizen, without any legal justification for that restriction. Specifically, IER determined that Respondent, as a prospective joint employer of Charging Party, withdrew its offer to employ Charging Party because he was not a U.S. citizen;

WHEREAS, during the course of the Investigation, Charging Party received from Respondent and Connect Search, LLC monetary compensation to address his claim of lost wages due to the withdrawal of an employment offer, so that IER is not seeking back pay as a remedy to resolve IER’s determination under 8 U.S.C. § 1324b(a)(1);

WHEREAS, Respondent does not acknowledge wrongdoing nor does it admit to any legal conclusions IER asserts in the Agreement and instead maintains that it is committed to diversity, equity and inclusion and has a track record of contracting, recruiting, hiring and retaining people in the United States with diverse backgrounds, experiences and perspectives.

WHEREAS, the Parties wish to resolve IER’s reasonable cause finding without further delay or expense, and to avoid the uncertainty and costs of litigation, and hereby acknowledge that they are voluntarily and freely 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 below, which date is referenced hereafter as the "Effective Date," and shall have a term of two years.
2. Respondent shall pay a civil penalty to the United States Treasury in the amount of \$4,610.
3. Respondent shall provide IER with the name, title, email address, and telephone number of the individual responsible for effectuating payment of the civil penalty no later than seven calendar days from the Effective Date. Respondent shall pay the monies in Paragraph 2 via the FedWire electronic fund transfer system within seven calendar days of receiving fund transfer instructions from IER. Respondent shall send confirmation of the payment to Katelyn Davis at Katelyn.Davis@usdoj.gov (or any other individual IER designates in writing) on the day the payment is made. The email confirming payment shall have Respondent's name and the investigation number, DJ# 197-85-82, in the subject line.
4. Pursuant to 8 U.S.C. § 1324b, Respondent shall not unlawfully discriminate against individuals based on citizenship, immigration status, or national origin, during the recruitment, hiring, firing, and employment eligibility verification and reverification processes (together, the "EEV" process), or intimidate, threaten, coerce, or retaliate against any person for participating in the Investigation or exercising any right or privilege secured by 8 U.S.C. § 1324b. In accordance with 8 U.S.C. § 1324b, Respondent also shall not unlawfully discriminate based on citizenship, immigration status, or national origin when considering, selecting, rejecting or removing individuals on or from projects for Respondent, regardless of whether the individuals are paid directly by Respondent or by a third-party.
5. Unless already posted in compliance with E-Verify requirements, Respondent shall within 14 calendar days of the Effective Date, post an English version and Spanish version of the IER poster in color measuring no smaller than 8.5" x 11" in all places where Respondent normally posts notices to employees. Additionally, within 14 calendar days of the Effective Date, Respondent shall post the electronic image (in a readable size or expandable to such size) on all websites, intranet or landing pages where employees and applicants visit in the course of the hiring and onboarding process. Respondent shall keep these postings at least throughout the term of this Agreement.
6. During the term of this Agreement, Respondent shall ensure that all individuals who are responsible for formulating, providing training on, implementing, or supervising Respondent's hiring, contracting, firing, equal employment, and/or employment eligibility verification policies, including all managers, employees, and contractors who have any role in the employment eligibility determination/verification process, have readily available the most current version of the Form I-9, USCIS Employment Eligibility Verification Handbook

for Employers (M-274) (“Handbook”), available at www.uscis.gov/I-9, and the most current USCIS E-Verify Manual (M-775) (“Manual”), available at www.e-verify.gov/e-verify-user-manual. Copies of these documents and future revisions of the Form I-9, Handbook, and Manual can be obtained from the United States Citizenship and Immigration Services at www.uscis.gov.

7. Within 90 calendar days of the Effective Date, Respondent shall submit to IER for review and approval any employment policies, training materials, and guidance that relate to hiring or contracting to ensure they comply with the requirements of 8 U.S.C. § 1324b and this Agreement. Respondent will, as needed, revise or create such documents to ensure that in addition to other discrimination prohibited they also:
 - a. Prohibit discrimination against “protected individuals,” as defined in 8 U.S.C. § 1324b(a)(3), on the basis of citizenship status, and immigration status, in recruiting or referral for a fee, hiring, and firing in violation of 8 U.S.C. § 1324b(a)(1);
 - b. Prohibit citizenship status discrimination against protected individuals— unless required to comply with a law, regulation, executive order, government contract, or Attorney General directive pursuant to 8 U.S.C. § 1324b(a)(2)(C). Such prohibitions shall also be included in any Equal Employment Opportunity statements Respondent provides in printed or electronic materials available to the public or employees;
 - c. Refer applicants and employees who raise a concern or otherwise make a complaint of discrimination based on national origin, citizenship or immigration status in connection with hiring, firing, recruiting or referring for a fee, or Form I-9 employment eligibility verification or reverification promptly to IER by directing the affected individual to the IER “If You Have The Right to Work” poster (“IER Poster”) (available at <https://www.justice.gov/crt/worker-information#poster>), IER’s worker hotline (800-255-7688), and IER’s website (www.justice.gov/ier), and inform the affected individual of his or her right to file a charge of discrimination with IER;
 - d. Prohibit asking questions during or associated with the recruiting or hiring process that would constitute or cause discrimination in violation of 8 U.S.C. § 1324b; and
 - e. Prohibit Respondent from intimidating or taking any retaliatory action against any individual for opposing any employment practice made unlawful by 8 U.S.C. § 1324b or which the individual reasonably believes to be unlawful under 8 U.S.C. § 1324b, for filing a charge, or for participating in any investigation or action under 8 U.S.C. § 1324b.

8. Within 90 calendar days of the Effective Date, Respondent shall ensure that every individual who is responsible for recruiting, contracting, hiring, or firing for Respondent, or who is responsible for interpreting or advising on citizenship status restrictions regarding Respondent's contracting or hiring practices, including any agents or contractors acting on Respondent's behalf ("Covered Personnel") receive training on their obligations under 8 U.S.C. § 1324b, as follows:
 - a. The training will consist in part of either (i) viewing a free, on-demand IER webinar presentation; or (ii) participating in a live, IER-provided free webinar presentation on one or more mutually agreed upon dates;
 - b. The training will further consist of reading IER material for employers about citizenship status discrimination, located at <https://www.justice.gov/crt/page/file/1080256/dl?inline>, and a fact sheet titled "How to Avoid Immigration-Related Discrimination When Complying with US Export Control Laws," located at: [https://www.justice.gov/crt/page/file/1579981/dl#:~:text=The%20ITAR%20and%20the%20EAR,other%20citizenship%20or%20immigration%20statuses](https://www.justice.gov/crt/page/file/1579981/dl#:~:text=The%20ITAR%20and%20the%20EAR,other%20citizenship%20or%20immigration%20statuses;);
 - c. All Covered Personnel will be paid their normal rate of pay, and the training will occur during their normally scheduled workdays and work hours. Respondent shall be responsible for all payroll costs and employee wages associated with these training sessions;
 - d. During the term of the Agreement, all Covered Personnel who assume or resume their duties after the initial training period described in this paragraph has been conducted, shall view an online IER Employer/HR webinar (live or on-demand) and read the IER materials listed in subpart (b) within 60 calendar days of assuming or resuming their duties; and
 - e. Within 90 calendar days, Respondent shall compile complete attendance records listing the Covered Personnel who attended an IER training, the date they completed the training, their full name, job title, signature, and the date(s) of the training. Respondent shall also include a signed or electronic acknowledgement by each Covered Personnel that they have read IER's Information for Employers about Citizenship Status Discrimination and export control materials linked above. On the same day, Respondent shall send the records via email to Michael.Cowles@usdoj.gov, or any other individual IER designates in writing. The email(s) transmitting attendance records shall have Respondent's name and the reference number DJ# 197-85-82 in the subject line.
9. During the term of this Agreement, IER reserves the right to make reasonable inquiries of Respondent to determine compliance with this Agreement. As part of such review, IER may require written reports concerning compliance,

- examine witnesses, and examine and copy Respondent's documents that IER reasonably determines are relevant to compliance.
10. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 and attachments within three business days pursuant to 8 C.F.R. § 274a.2(b)(2)(ii) and 28 C.F.R. § 44.302(b).
 11. 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 discrimination 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 days from the date IER notifies it of the purported violation(s) to cure the violation(s) to IER's satisfaction.
 12. This Agreement does not affect the right of any individual to file an IER charge alleging an unfair immigration-related employment practice against Respondent, IER's authority to investigate such charge 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 the scope of the Investigation.
 13. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between IER and Respondent relating to the Investigation through the Effective Date. The provisions of Paragraph 2 notwithstanding, IER shall not seek from Respondent any additional civil penalty for the violation of 8 U.S.C. § 1324b encompassed in the Investigation, designated as DJ# 197-85-82, through the Effective Date.


III. ADDITIONAL TERMS OF SETTLEMENT

15. 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 IER Investigation. 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.
16. The United States District Court for the Eastern District of Wisconsin 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.

- 17. Should any court declare or determine that any provision(s) of this Agreement is/are illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected, and said illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement. The Parties shall not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.
- 18. The Parties shall each bear their own costs, attorneys' fees, and other expenses incurred in this action.
- 19. The Parties agree that, as of the Effective Date of this Agreement, litigation concerning the alleged violations of 8 U.S.C. § 1324b that IER investigated 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.
- 20. 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 agree to be bound by electronic signatures.

Breakthrough Fuel, LLC

By:

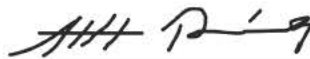

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John Teggart

President

Dated: 8/22/2024

Immigrant and Employee Rights Section

By:


Alberto Ruisanchez
Deputy Special Counsel

Dated: 8/26/2024

Jodi Danis
Special Litigation Counsel

Katelyn Davis
Trial Attorney