

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Department of Veterans Affairs (VA) (collectively the “United States”), and NH Learning Solutions Corporation (NHLS) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. Until 2021, NHLS was a domestic for-profit corporation based in Livonia, Michigan that operated vocational schools offering non-college degree programs under a series of franchise agreement(s) with New Horizons Franchising Group, Inc. and/or other affiliates of New Horizons, Inc. NHLS sought and received approval from the State Approving Agency where each NHLS school was located to enroll veteran students in NHLS’s non-college degree programs under the Post-9/11 Veterans Educational Assistance Act of 2008, 38 U.S.C. §§ 3301–27 (“Post-9/11 GI Bill”). The Post-9/11 GI Bill provides educational assistance benefits for eligible veterans and members of the armed services who enroll in qualified education or training programs. The VA remits tuition and fees directly to schools and provides veteran students a monthly housing allowance and stipend for books and supplies.

B. On December 16, 2022, the United States filed suit against NHLS in the United States District Court for the Eastern District of Michigan in a case styled *United States v. NH Learning Solutions Corp.*, No. 2:22-cv-13045 (E.D. Mich.) (the “Civil Action”) for violations of the False Claims Act, 31 U.S.C. §§ 3729-3733, and the

common law. On May 24, 2023, the United States filed an Amended Complaint in the Civil Action.

C. The United States contends that it has certain civil claims against NHLS arising from NHLS submitting or causing the submission of reimbursement claims to the VA for educational assistance benefits under the Post-9/11 GI Bill in violation of statutory and regulatory requirements as alleged in the United States' Amended Complaint in the Civil Action. That conduct is referred to below as the Covered Conduct.

D. NHLS denies the United States' allegations in Paragraph C.

E. This Settlement Agreement is neither an admission of liability by NHLS nor a concession by the United States that its claims are not well founded.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. NHLS shall pay to the United States \$975,000.00 (Settlement Amount), of which \$487,500 is restitution, by electronic funds transfer no later than ten (10) days after the Effective Date of this Agreement pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice.

2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and conditioned upon the United States' receipt of the Settlement Amount, the United States releases NHLS, together with its current and former parent corporate entities and limited liability companies; direct and indirect subsidiaries and affiliates;

brother or sister corporate entities; divisions; current or former corporate owners; and the corporate successors and assigns of any of them, from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake and unjust enrichment.

3. Notwithstanding the release given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, or any administrative remedy, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due; and

- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

4. NHLS waives and shall not assert any defenses NHLS may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

5. NHLS fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that NHLS has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of NHLS, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) NHLS's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and

civil investigation in connection with the matters covered by this Agreement (including attorneys' fees);

- (4) the negotiation and performance of this Agreement; and
- (5) the payment that NHLS makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by NHLS, and NHLS shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within ninety (90) days of the Effective Date of this Agreement, NHLS shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by NHLS or any of its subsidiaries or affiliates from the United States. NHLS agrees that the United States, at a minimum, shall be entitled to recoup from NHLS any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine NHLS's books and records and to disagree with any calculations submitted by NHLS or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by NHLS, or the effect of any such Unallowable Costs on the amount of such payments.


7. This Agreement is intended to be for the benefit of the Parties only.
8. Upon receipt of the payment described above in Paragraph 1, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1).
9. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
10. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.
11. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of Michigan. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.
12. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.
13. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.
14. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.
15. This Agreement is binding on NHLS's successors, transferees, heirs, and assigns.

16. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

17. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.


THE UNITED STATES OF AMERICA

DATED: 9/30/24

BY: 

Christopher G. Wilson
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
United States Department of Justice


DATED: 09/30/24

BY: 

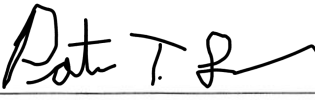
Anthony C. Gentner
Assistant United States Attorney
Eastern District of Michigan

NHLS - DEFENDANT

DATED: 9/30/24

BY: 
Mark McManus, Jr.
President

DATED: Sept. 30, 2024

BY: 
Patrick T. Lewis
BAKERHOSTETLER LLP

Counsel for NHLS