

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and entered into by and between Powerstaffing, Inc. ("Respondent"), and the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices ("Office of Special Counsel"), and is effective as of the date last executed.

WHEREAS, the Office of Special Counsel opened an independent investigation against Respondent, identified as DJ Number 197-48-505, to investigate the Respondent's employment eligibility verification practices and whether those practices violate the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b (the "Act").

WHEREAS, the Office of Special Counsel concluded based upon its investigation that there is reasonable cause to believe that Respondent engaged in a pattern or practice of unfair documentary practices in violation 8 U.S.C. § 1324b(a)(6). Specifically, OSC found reasonable cause to believe that Respondent required non-U.S. citizens, but not similarly-situated U.S. citizens, to present specific documents during the employment eligibility verification process because of their national origin, citizenship, or immigration status.

WHEREAS, this Agreement is neither an admission by Respondent of any act in violation of 8 U.S.C. § 1324b, nor an admission by the United States of the merits of any of Respondent's defenses.

WHEREAS, Respondent, without admitting liability, and the Office of Special Counsel wish to resolve this investigation without further delay or expense 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 instant investigation as of the date of this Agreement, it is agreed as follows:

1. Respondent shall pay a civil penalty to the United States Treasury in the amount of one hundred and fifty three thousand dollars (\$153,000). Respondent shall pay this sum in three equal installments of \$51,000.
2. The monies discussed in paragraph 1 shall be paid via the FedWire electronic fund transfer system. The civil penalty shall be paid in three equal installments, the first of which (\$51,000) shall be paid within ten (10) business days, the second of which shall be paid within 40 business days, and the third of which shall be paid within 70 business days of Respondent's receipt of a fully signed copy of this Agreement and fund transfer instructions. The Office of Special Counsel will provide Respondent instructions for the FedWire electronic transfer.
3. Respondent shall not discriminate on the basis of citizenship status or national origin in violation of 8 U.S.C. § 1324b.
4. Respondent shall avoid discrimination in the employment eligibility verification and re-verification process by (a) honoring documentation that on its face reasonably appears to be genuine, relates to the person, and satisfies the requirements of 8 U.S.C. § 1324a(b);

(b) not requesting more or different documents than are required by law; and (c) permitting all employees to present any document or combination of documents acceptable by law.

5. Respondent shall not 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.
6. Respondent shall post an English and Spanish version of the Office of Special Counsel "If You Have The Right to Work" poster ("OSC Poster"), in color and measuring no smaller than 18" x 24", an image of which is available at <http://www.justice.gov/crt/about/osc/htm/worker.php#>, in all places where notices to employees and job applicants are normally posted. The OSC Poster will be posted within fourteen (14) days from the effective date of this Agreement and will remain posted for two (2) years thereafter.
7. Beginning not more than fourteen (14) days from the effective date of this Agreement, Respondent shall provide (1) a letter-sized copy of the OSC Poster in English and the applicant's preferred language, if the preferred language is known and the OSC Poster is available in that language, with all paper employment applications, and (2) an electronic link to the English and Spanish versions of the OSC Poster with all electronic applications. Respondent will continue to do so for one(1) year thereafter.
8. For two (2) years from the effective date of this Agreement, Respondent shall give a copy of the Lists of Acceptable Documents to individuals at the same time as Respondent provides them with the Form I-9 to complete, and shall inform those individuals of their right to choose to present any document(s) that are on the Lists or are otherwise acceptable for purposes of employment eligibility verification.
9. For two (2) years from the effective date of this Agreement, Respondent shall ensure that all individuals who are responsible for formulating, providing training on, or implementing Respondent's hiring, firing, equal employment, and employment eligibility verification policies, including all managers and employees who have any role in the employment eligibility verification process, such as completing the Form I-9 and/or using the E-Verify system ("Human Resources Personnel"), are in possession of 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 Central, and the most current USCIS E-Verify Manual (M-775) ("Manual"), available at www.uscis.gov/USCIS/Verification/E-Verify/E-Verify_Native_Documents/manual-employer_comp.pdf. 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.
10. Within sixty (60) days of the effective date of this Agreement, Respondent will review any existing employment policies that relate to nondiscrimination on the basis of citizenship status and national origin and shall, as necessary, create or revise such policies to:

- (a) Prohibit (1) discriminating on the basis of citizenship status or national origin in the hiring and firing process; and (2) discriminating, on the basis of citizenship status or national origin, during the Form I-9 employment eligibility verification and re-verification process, including in connection with E-Verify-related inquiries Respondent makes directly or through a designated agent.
- (b) Refer applicants and employees who complain to Respondent directly of discrimination in the hiring, firing, or Form I-9 employment eligibility verification and re-verification process immediately to the Office of Special Counsel by directing the affected individual to the OSC Poster and the Office of Special Counsel's worker hotline and website, and advise the affected individual of his or her right to file a charge of discrimination with the Office of Special Counsel.
- (c) Provide that Respondent shall not take any reprisal action against an employee for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in any lawful manner in any investigation or action under 8 U.S.C. § 1324b.

During the two (2) years following the effective date of this Agreement (the "Reporting Period"), Respondent shall provide any new or changed employment policies or practices relating to nondiscrimination on the basis of citizenship status or national origin to the Office of Special Counsel for approval at least thirty (30) days prior to the proposed effective date of such new or revised policies.

11. Within ninety (90) days of the effective date of this Agreement, all Human Resource Personnel or other individuals who transmit Form I-9 information to Respondent's E-Verify Employer Agent shall receive training on their responsibilities to comply with 8 U.S.C. § 1324b, the appropriate use of E-Verify, and the employment eligibility verification and re-verification process as it relates to discrimination on the basis of citizenship status or national origin.
- (a) The training will consist of viewing a live or remote Office of Special Counsel presentation.
 - (b) All employees will be paid their normal rate of pay, and the training will occur during their normally scheduled workdays and work hours. Respondent shall bear all costs associated with these training sessions.
 - (c) Respondent shall compile attendance records listing the individuals who comply with the training as described in this paragraph in the form of Attachment A, including their full name, title, signature, and the date of the training, and send them via email to Liza.Zamd@usdoj.gov within ten (10) days of each training session.
 - (d) For a period of two (2) years from the effective date of this Agreement, all new Human Resources Personnel hired after the training described in this


paragraph has been conducted shall attend an in-person or online Office of Special Counsel Employer/HR training within sixty (60) days of hire.

12. During the Reporting Period, the Office of Special Counsel reserves the right to make reasonable inquiries to Respondent, through counsel, necessary to determine Respondent's compliance with this Agreement. As a part of such review, the Office of Special Counsel may require written reports concerning compliance, examine witnesses, and examine and copy Respondent's documents at the expense of the Office of Special Counsel.
13. Every four (4) months for the duration of twenty (20) months from the effective date of this Agreement, Respondent shall provide the Office of Special Counsel with a list of the last name, first name, hire date, and termination date (if applicable) of all lawful permanent residents it hired during the preceding four (4) months. The Office of Special Counsel will select up to one hundred and twenty five (125) individuals from that list, and Respondent will submit electronic copies of the selected individuals' completed Forms I-9, including attachments, within thirty (30) days of when the Office of Special Counsel sends its list of individuals to Respondent.
14. If the Office of Special Counsel has reason to believe that Respondent is in violation of any provision of this Agreement, the Office of Special Counsel, within its discretion, may notify Respondent's counsel of the purported violation. Such notice will be in writing. Respondent will then be given a thirty (30) day period from the date its counsel receives written notification by the Office of Special Counsel in which to cure the violation to the Office of Special Counsel's satisfaction before Respondent is deemed by the Office of Special Counsel to be in violation of this Agreement.
15. This Agreement resolves any and all differences between the parties relating to the instant independent investigation through the date this Agreement is signed by all parties.
16. The provisions of paragraph 1 notwithstanding, the Office of Special Counsel shall not seek from Respondent any additional civil penalty for any alleged unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6), including any alleged pattern or practice of unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6), that were the subject of the instant independent investigation, designated as DJ Number 197-48-505, through the effective date of this Agreement. This Agreement does not affect the right of any individual to file a charge alleging an unfair immigration related employment practice against Respondent with the Office of Special Counsel, the authority of the Office of Special Counsel to investigate and seek to remedy such charge, or the right of such individual to bring an action against Respondent based upon such charge.
17. Nothing contained in this Agreement shall be construed to be an admission by Respondent that Respondent has violated the Act or any other federal, state, or local statute, regulation, or law. Respondent expressly denies that it has violated the Act or any federal, state, or local statute, regulation, or law.
18. This Agreement may be enforced in the United States District Court for District of New Jersey.

19. The Office of Special Counsel and Respondent agree that, as of the effective date of this Agreement, litigation concerning the violations of 8 U.S.C. § 1324b that the Office of Special Counsel has reasonable cause to believe that Respondent committed 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. 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 thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. Respondent and the Office of Special Counsel agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement invalid.
21. The Office of Special Counsel and Respondent agree to bear their own costs, attorneys' fees and other expenses incurred in this action.
22. This Agreement sets forth the entire agreement between the Respondent and the Office of Special Counsel.
23. 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 facsimile signatures.

Powerstaffing, Inc.

By:



David Bricker
President

Dated: 6.22.16

Office of Special Counsel for Immigration-Related Unfair Employment Practices

By:



Alberto Ruiz Sanchez
Deputy Special Counsel

Dated: 6/23/16

C. Sebastian Aloit
Special Litigation Counsel

Liza Zamd
Senior Trial Attorney