

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and entered into between Mrs. Fields' Original Cookies, Inc. ("Respondent") and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section ("IER") (together, the "Parties").

I. BACKGROUND

WHEREAS, on March 20, 2017, IER initiated an independent investigation of Respondent, identified as DJ#197-77-122 ("Investigation"), to determine whether Respondent's employment eligibility verification ("EEV") practices violate the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b ("Act");

WHEREAS, based upon its investigation, IER concluded that there is reasonable cause to believe that Respondent engaged in a pattern or practice of unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6) from at least March 21, 2016 through March 20, 2017. Specifically, during at least that time period, the human resources staff member primarily responsible for completing Section 2 of Forms I-9 on Respondent's behalf, requested lawful permanent residents, but not similarly situated U.S. citizen employees, to produce a List A document to prove their employment eligibility under 8 U.S.C. § 1324a(b).

WHEREAS, the Parties wish to resolve this Investigation without further delay or expense, and hereby acknowledge that each party is voluntarily and freely entering into this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises contained below, and to fully and finally resolve IER's reasonable cause finding, 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." The "Term of this Agreement" shall be three (3) years following the Effective Date.
2. Respondent shall pay a civil penalty to the United States Treasury in the amount of twenty-six thousand, four hundred dollars (\$26,400).
3. Respondent shall provide IER with the name, title, email address, and telephone number of the individual responsible for effectuating payment of the civil penalties described in paragraph 2 above no later than five (5) business days from the Effective Date. Respondent shall pay the monies discussed in paragraph 2 above via the FedWire electronic fund transfer system within ten (10) business

days of the Effective Date of this Agreement or receipt of fund transfer instructions from IER, whichever is later. On the day of payment, Respondent shall confirm via email to Gloria Yi at Gloria.Yi@usdoj.gov and Michaela Olson at Michaela.Olson@usdoj.gov that payment was made.

4. The provisions of paragraph two notwithstanding, IER shall not seek from Respondent any additional civil penalty for the pattern or practice of unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6) that is the subject of the IER Investigation through the Effective Date.
5. Pursuant to 8 U.S.C. § 1324b, Respondent shall not discriminate against applicants or employees based on citizenship, immigration status, or national origin, during the recruitment, hiring, firing, and EEV and re-verification processes.
6. Respondent shall avoid discrimination in the EEV and re-verification processes 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.
7. Respondent shall not intimidate, threaten, coerce, or retaliate against any person for his or her participation in IER's investigation or exercise of any right or privilege secured by 8 U.S.C. § 1324b.
8. Unless already posted, Respondent shall post IER's "If You Have The Right to Work" poster ("IER Poster"), in color and measuring no smaller than 18" x 24," an image of which is available at <https://www.justice.gov/crt/worker-information#poster>, in all places where notices to employees and job applicants are normally posted. The IER Poster will be posted within fourteen (14) days of the Effective Date and will remain posted for at least three (3) years thereafter. Respondent shall post the IER Poster in English, Spanish, and any other available language that is the preferred language of Respondent's employees, if that language is known.
9. Within sixty (60) days of the Effective Date, Respondent will review any existing employment policies that relate to nondiscrimination based on protected traits or characteristics. To the extent that Respondent has, develops or adopts such policies during the Term of this Agreement that do not already include such provisions, Respondent will ensure such policies:
 - (a) Prohibit discrimination on the basis of citizenship, immigration status, or national origin: (1) in the hiring and firing processes; and (2) during the Form I-9/E-Verify EEV processes;
 - (b) Include citizenship, immigration status, and national origin as prohibited bases of discrimination, and ensure inclusion of these

bases in any similar Equal Employment Opportunity (EEO) statements Respondent includes in printed or electronic materials available to the public or employees;

- (c) Refer applicants and employees who complain, formally or informally, of discrimination in the hiring, firing or Form I-9/E-Verify EEV process to IER by directing the affected individual to the IER Poster and IER's worker hotline (800-255-7688) and website, <https://www.justice.gov/ier>, and advise the affected individual of his or her right to file a charge of discrimination with IER; and
 - (d) 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.
10. During the Term of this Agreement, Respondent shall ensure that all individuals who are responsible for formulating, carrying out, and/or conducting training on Respondent's hiring, firing, and EEV policies, as well as all managers and employees who have any role in the EEV process, such as completing the Form I-9 and/or using the E-Verify system (collectively, "Human Resources Personnel"), can readily access 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-9Central, and the most current USCIS E-Verify Manual (M-775) ("Manual"), available at www.uscis.gov/e-verify/publications/manuals-and-guides/e-verify-user-manual. Copies of these documents and future revisions of the Form I-9, Handbook, Manual and guidance can be obtained from the United States Citizenship and Immigration Services at www.uscis.gov.
11. Within sixty (60) days of the Effective Date, Respondent shall train all Human Resources Personnel on their obligations to comply with 8 U.S.C. § 1324b and the EEV processes as it relates to discrimination on the basis of citizenship, immigration status, and national origin.
- (a) The trainings shall consist of viewing a free IER presentation conducted on date(s) and time(s) as agreed upon by the Parties;
 - (b) All employees will be paid 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 employee costs associated with these training sessions;
 - (c) Respondent shall compile attendance records listing the individuals who attend the training described in this paragraph, including their

full name, title, signature, and the date of the training, and send them via email to Gloria.Yi@usdoj.gov and Michaela.Olson@usdoj.gov within ten (10) days of each training session; and

- (d) For a period of three (3) years from the Effective Date of this Agreement, all new Human Resources Personnel who assumed their duties after the training described in this paragraph has been conducted shall attend an IER Employer/HR webinar within sixty (60) days of hire. Respondent shall compile and send attendance records for these individuals pursuant to paragraph 11(c), and shall also include the individuals' date of hire.
- 12. During the Term of this Agreement, IER reserves the right to make reasonable inquiries to Respondent to determine Respondent's compliance with this Agreement. As a part of such review, IER may require written reports concerning compliance, inspect Respondent's premises, examine witnesses, and examine and copy Respondent's documents.
 - 13. 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 without opening an investigation. IER will then give Respondent thirty (30) days from the date IER notifies it to cure the violation to IER's satisfaction before IER deems Respondent to be in violation of this Agreement.
 - 14. This Agreement does not affect the right of any individual to file an IER charge alleging an unfair immigration-related employment practice, IER's authority to investigate or file a complaint on behalf of any such individual, or IER's authority to conduct an independent investigation of Respondent's employment practices apart from those encompassed within the Investigation as of the Effective Date.

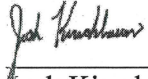
III. ADDITIONAL TERMS OF SETTLEMENT

- 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 Parties' right to argue that other terms in the Agreement are material.
- 16. This Agreement may be enforced in the United States District Court for the District of Utah or any other court of competent jurisdiction to seek any remedy

authorized at law or in equity. 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.

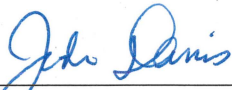
17. Should any court declare or determine that any provision(s) of this Agreement is/are illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected and said illegal or invalid part(s), term(s) or provision(s) shall be deemed not to be part of this Agreement. The 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 agree that, as of the Effective Date, litigation concerning the violations of 8 U.S.C. § 1324b that IER has reasonable cause to believe that Respondent committed is not reasonably foreseeable. To the extent that any 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.
19. The Parties shall each bear their own costs, attorneys' fees and other expenses incurred in this action.
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 facsimile signatures.

Mrs. Fields' Original Cookies, Inc.

By: 
Josh Kirschbaum
Interim Chief Executive Officer

Dated: 12/3/18

Immigrant and Employee Rights Section

By: 
Jodi Danis
Special Litigation Counsel

Dated: 12/6/18

Sebastian Aloom
Special Litigation Counsel

Gloria Yi
Silvia Dominguez-Reese
Trial Attorneys

Katelyn Davis
Michaela Olson
Paralegal Specialists