

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is made by and between Louisiana Crane & Construction, LLC ("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").

WHEREAS, on July 23, 2013, the Office of Special Counsel notified Respondent of its independent investigation (DJ 197-33-27) of Respondent's potential unfair documentary practices in violation of the immigration-related unfair employment practices provisions of 8 U.S.C. § 1324b (the "Act").

WHEREAS, on August 29, 2014, the Office of Special Counsel filed a complaint with the Office of the Chief Administrative Hearing Officer ("OCAHO"), alleging that Respondent had engaged in a pattern or practice of discrimination in its employment eligibility verification process in violation of the Act (the "Complaint"). *United States v. Louisiana Crane Company d/b/a Louisiana Crane & Construction*, 14B00102.

WHEREAS, on September 30, 2014, Respondent filed an Answer denying that it had engaged in any violations of the Act.

WHEREAS, the Office of Special Counsel and Respondent wish to resolve this matter without further delay or expense, and hereby acknowledge that they are voluntarily entering into this Agreement.

WHEREAS Respondent understands its obligations under 8 U.S.C. § 1324b to treat all individuals equally to the extent required by the Act, without regard to citizenship status or national origin, during the employment eligibility verification and re-verification processes.

NOW, THEREFORE, in consideration of the above premises and mutual promises herein contained and to fully and finally resolve the aforementioned case between the parties hereto as of the date that this Agreement is executed by the parties (the "Effective Date"), it is agreed as follows:

1. Respondent shall pay a civil penalty to the United States Treasury in the amount of One Hundred and Sixty-Five Thousand Dollars (\$165,000.00). Such amount shall be paid in two equal payments of Eighty-Two Thousand Five Hundred Dollars (\$82,500.00) no later than December 31, 2015, and December 30, 2016, respectively.
2. Respondent shall pay the monies referenced in paragraph one via the FedWire electronic fund transfer system. The Office of Special Counsel shall provide Respondent with fund transfer instructions. On the days of the payments, Respondent shall confirm that such payments were made via email to Liza Zamd at [Liza.Zamd@usdoj.gov](mailto:Liza.Zamd@usdoj.gov).



3. Respondent shall set aside a fund of Fifty Thousand Dollars (\$50,000.00) to compensate individuals, if any, who may be determined to be eligible for backpay for periods of lost work as a result of Respondent's employment eligibility verification or re-verification processes. To determine who may be eligible to receive backpay under this paragraph 3, Respondent and the Office of Special Counsel shall observe the following steps:

- a) Within sixty (60) days after the Effective Date of this Agreement, Respondent shall (i) send a notice by U.S. mail to the last known address of all known non-U.S. citizens who were hired by Respondent anytime between July 1, 2011, and the Effective Date of this Agreement advising them that they may be entitled to backpay, and (ii) provide the Office of Special Counsel with the names and U.S. mailing addresses of each such individual to whom the notice was sent.
- b) The language of the notice to be sent to individuals pursuant to paragraph 3(a) is set forth in Attachment A. Respondent must direct any individuals who contact Respondent in response to the notice or regarding this fund to contact the Office of Special Counsel through the means outlined in Attachment A. All individuals to whom the notice is sent will have sixty (60) days from the date of mailing of the notice to contact the Office of Special Counsel in order to be considered for backpay.
- c) Within one hundred and eighty (180) days after the Effective Date of this Agreement, the Office of Special Counsel will determine the amount of backpay that it believes each individual who has contacted the Office of Special Counsel pursuant to paragraph 3(b) may be owed under the Act. The Office of Special Counsel may request, and Respondent shall provide within ten (10) business days of the request, any additional information regarding an individual, such as the individual's application, work history or rate of pay that is necessary to determine whether the individual is entitled to backpay and, if so, the amount of backpay.
- d) Within one hundred and ninety (190) days after the Effective Date of this Agreement, the Office of Special Counsel shall provide Respondent with a report identifying each individual whom the Office of Special Counsel has determined should be paid backpay and, for each such individual, the Office of Special Counsel shall provide Respondent with the following information (if such information is not in Respondent's possession): (i) the legal name, (ii) the social security number, (iii) the applicable rate of pay, (iv) the number of hours of alleged lost work, (v) the current mailing address, (vi) the total backpay amount, and (vii) any other information that is necessary for Respondent to prepare a Form W-2 for each individual.



- e) Within two hundred and twenty (220) days after the Effective Date of this Agreement, Respondent will send to each individual whom the Office of Special Counsel has determined is entitled to backpay a notice in the form of Attachment B, stating the amount of backpay to which the individual is entitled, as determined by the Office of Special Counsel, and providing a release of claims. The notice will explain to the individual that, in order to receive backpay, the individual must execute and return to the Respondent the release of claims.
- f) The release of claims that will be sent to individuals whom the Office of Special Counsel determines are entitled to backpay shall be submitted to the Office of Special Counsel for approval prior to being sent to any individuals. The release of claims must be limited to the violations of the Act for which the payment of backpay relates. No backpay shall be paid by Respondent under this paragraph until after Respondent has received a fully-executed release from the individual to whom backpay will be paid.
- g) Within ten (10) days after it has received a fully-executed release of claims from an individual whom the Office of Special Counsel has determined is entitled to backpay, Respondent shall send or make available a check payable to the individual in one of the following methods: (i) via U.S. certified mail, (ii) in person with written confirmation of receipt signed by both the individual who receives the payment and Respondent indicating the date, time and place of delivery, or (iii) by another method as agreed upon by the parties. Respondent shall follow the applicable instructions contained in IRS Publication 957.
- h) Within fifteen (15) days of any payment to an individual under this paragraph 3, Respondent shall provide to the Office of Special Counsel a record of the name of, and compensation received by, the individual(s) who are paid backpay, signed and attested to by Respondent or its agent.
- i) If the fund described in this paragraph 3 is insufficient to cover the claims of individuals, the Office of Special Counsel shall determine the proper allocation of payments from the fund of Fifty Thousand Dollars (\$50,000.00), and Respondent shall make such payments to each individual as directed by the Office of Special Counsel and as described in this paragraph.
- j) If monies remain in the fund described in this paragraph after all the claims of individuals have been paid, Respondent will donate the remaining funds to a provider of civil legal services in Texas or Louisiana to be used in assisting work-authorized immigrants in the community with employment-related counseling and/or educating the immigrant community about their employment rights. This donation will be made within thirty (30) days of the last payment made to an individual from the



fund. Respondent will identify up to five (5) civil legal services providers within thirty (30) days of the Effective Date of this Agreement, which the Office of Special Counsel must approve prior to any distribution of funds. Respondent will donate the remaining funds to any one of up to five (5) civil legal services providers that Respondent selects and that have been approved by the Office of Special Counsel.

4. Respondent shall continue to not intimidate, threaten, coerce or retaliate against any person for his or her participation in this matter or for the exercise of any right or privilege secured by 8 U.S.C. § 1324b.
5. Respondent shall continue to treat all individuals equally, without regard to citizenship or national origin, during the hiring, firing and employment eligibility verification and re-verification process. Respondent shall continue to avoid discrimination in the employment eligibility verification and re-verification process by (a) accepting documentation provided by an employee 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 8 U.S.C. § 1324a, and (c) permitting all employees to present any document or combination of documents acceptable by 8 U.S.C. § 1324a.
6. Within fourteen (14) days after the Effective Date of this Agreement, Respondent shall (a) post 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; (b) include a copy of the OSC Poster in the hiring packet documents that are provided to employees after they are hired; and (c) include a copy of the OSC Poster with the employment application that an applicant or employee may be asked to complete. Respondent's obligation to post the OSC Poster and include a copy of the OSC Poster with the hiring packet and employment application shall continue for two (2) years after the Effective Date of this Agreement. The OSC Poster shall be posted in English and made available in Spanish and any other language that is the preferred language of Respondent's employees and for which the OSC Poster is available.
7. With respect to training, Respondent shall take the following actions:
  - a) Within thirty (30) days after the Effective Date 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 employment eligibility verification and re-verification policies, including all managers and employees who have any role in making employment eligibility decisions and completing the Form I-9, are



in possession of the most current version of the Form I-9 and the USCIS Employment Eligibility Verification Handbook for Employers (M-274) ("Handbook"). Copies of the Handbook and future revisions of the Form I-9 and Handbook can be obtained from the United States Citizenship and Immigration Services at [www.uscis.gov](http://www.uscis.gov).

- b) Within ninety (90) days after the Effective Date of this Agreement, all of Respondent's personnel who are involved in the hiring, firing and employment eligibility verification and re-verification process ("HR Personnel") shall receive training on their obligations under 8 U.S.C. § 1324b. Such training shall be prepared and delivered by a qualified attorney with the law firm of Alston & Bird LLP. All training materials shall be submitted to the Office of Special Counsel for review and approval at least thirty (30) days prior to the delivery of the training to Respondent's employees. In addition, Respondent will videotape the initial training session and submit it to the Office of Special Counsel for review. In the event that the Office of Special Counsel and counsel for Alston & Bird agree that any portion of the videotape contains an error, Respondent shall correct such error on the videotape and shall provide Respondent's HR Personnel with a written correction approved in advance by the Office of Special Counsel.
  - c) All HR Personnel hired or reassigned by Respondent after the training described in paragraph 7(b) has been conducted shall be required to attend a similar training, which may be satisfied by playing the videotape described in paragraph 7(b) above, within sixty (60) days of hire or reassignment.
  - d) All of Respondent's employees who attend the training described in this paragraph 7 shall be paid their normal rate of pay during the training session, and the training shall occur during their normally scheduled work days and work hours. Respondent shall bear all costs associated with the training sessions.
  - e) Within thirty (30) days of any training provided under this paragraph 7, Respondent shall provide the Office of Special Counsel with the names, titles and dates of training for the individuals who attended the training session. Such information shall be sent via e-mail to [Liza.Zamd@usdoj.gov](mailto:Liza.Zamd@usdoj.gov).
  - f) The requirements described in this paragraph 7 shall continue for two (2) years after the Effective Date of this Agreement.
8. With respect to its employment policies relating to hiring, firing and the employment eligibility verification and re-verification process, Respondent shall take the following actions:



- a) Within thirty (30) days after the Effective Date of this Agreement, Respondent shall review and, if necessary, revise its employment policies to prohibit (i) the requesting of citizenship or immigration status information from job applicants or employees (unless otherwise required by law), (ii) the requesting of employment eligibility verification documents from any individual prior to making an offer of employment, and (iii) discrimination on the basis of citizenship status or national origin during the hiring, firing and employment eligibility verification and re-verification process.
  - b) Continue to prohibit any retaliation 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.
  - c) For the two (2) years after the Effective Date of this Agreement, Respondent shall provide any changes in employment policies that relate to non-discrimination on the basis of citizenship status or national origin in the hiring, firing and employment eligibility verification and re-verification process to the Office of Special Counsel for review and approval at least thirty (30) days prior to the effective date of such revised policies.
9. For two (2) years after the Effective Date of this Agreement, Respondent shall provide the Office of Special Counsel with (a) copies of all Form I-9s, including copies of any identification and work authorization documents, and (b) the name, address, telephone number and hire date of all newly-hired employees. Such information shall be provided to the Office of Special Counsel at least every four (4) months during this two-year period.
10. During the two (2)-year period after the Effective Date of this Agreement, the Office of Special Counsel reserves the right to make reasonable inquiries of Respondent that are necessary to determine Respondent's compliance with this Agreement, including reasonable requests that Respondent provide additional information, permit the inspection of Respondent's premises to confirm that Respondent has complied with the posting requirement described in paragraph 6 above, permit interviews with Respondent's employees and examine and make copies of Respondent's relevant records and documents. The Office of Special Counsel agrees to provide Respondent with at least seventy-two (72) hours advance notice of any request to inspect Respondent's premises or to interview Respondent's employees.
11. 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 agrees that it will notify Respondent of such concerns or purported violations and work




with Respondent to address and resolve any such concerns or purported violations. Respondent will be given a thirty (30)-day period from the date that it is notified by the Office of Special Counsel of any concerns or purported violations in which to cure the concerns to the satisfaction of the Office of Special Counsel before the Office of Special Counsel takes further action to remedy the concerns or purported violations of this Agreement.

12. The Office of Special Counsel shall not seek from Respondent any additional civil penalties or backpay other than the penalties and backpay described in this Agreement for any alleged unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6) similar to those alleged in the Complaint on behalf of any individual, class of individuals or on behalf of the United States Government through the Effective Date of this Agreement. This Agreement does not affect the right of an individual to file a charge with the Office of Special Counsel alleging an unfair documentary practice in violation of 8 U.S.C. § 1324b(a)(6), the right 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.
13. 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.
14. This Agreement may be enforced in the United States District Court for the Western District of Louisiana or any other court of competent jurisdiction.
15. The Office of Special Counsel and Respondent agree that 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.
16. If any court declares or determines any provision of this Agreement 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 shall not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.
17. The Office of Special Counsel and Respondent shall bear their own costs, attorneys' fees and other expenses incurred in this action.
18. 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 signatures.

**Louisiana Crane & Construction, LLC**

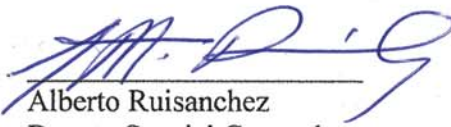
By:

  
Doug Marcantel  
Chief Financial Officer

Dated: 8/26/15

**Office of Special Counsel for Immigration-Related Unfair Employment Practices**

By:

  
Alberto Ruisanchez  
Deputy Special Counsel

Dated: 8-31-15

Jodi Danis  
Special Litigation Counsel

Liza Zamd  
Silvia Dominguez-Reese  
Trial Attorneys



[ATTACHMENT A]

[LCC Letterhead]

Date:

Name

Address

State/City Zip

**RE: NOTICE OF SETTLEMENT AND POSSIBLE COMPENSATION**

Dear Mr/Ms [last, name]:

I am writing because the Louisiana Crane & Construction ("LCC") and the Civil Rights Division of the U.S. Department of Justice ("DOJ") recently entered into a settlement agreement regarding LCC's practices during the Form I-9/E-Verify processes. **You have done nothing wrong; rather, as part of the settlement agreement with the U.S. Department of Justice, LCC has agreed to contact you about certain rights that you may have under the settlement agreement.**

You may be entitled to receive backpay if you lost work or were not hired because of your employment documents.

**If you believe that you did not lose work due to your employment documents, you can disregard this letter.**

If you believe that you may be entitled to backpay, you must return the enclosed form to the DOJ by **[DATE, which will be 60 days from when letter is sent]**. If you do not contact the DOJ by **[DATE]**, you will lose the right to obtain back pay. **Please refer to the attached document for more detailed instructions on how to contact the DOJ and what to expect in this process.**

You will not be eligible to receive backpay unless you fill out the form. If the DOJ determines that you are entitled to backpay, someone from the DOJ will contact you. In addition, if the DOJ determines that you are entitled to backpay, you will be required to sign a release of claims, which has been approved by the DOJ, prior to receiving a backpay check from LCC.

Thank you for your attention to this matter. Sincerely,

**[LCC Letterhead]  
[ATTACHMENT B]**

Date:

Name  
Address  
State/City Zip

**RE: NOTICE OF COMPENSATION**

Dear Mr/Ms. [last name];

This letter is about the settlement between Louisiana Crane & Construction ("LCC") and the Civil Rights Division of the U.S. Department of Justice. The Civil Rights Division has determined that you are owed [\$x] in backpay under the settlement, and that this amount of backpay, less all applicable taxes and other required withholdings, will be sent or given to you within ten (10) business days after you sign the attached release and returned the release to LCC.

If you disagree with the amount of backpay noted above, you must immediately contact the Office of Special Counsel for Immigration-Related Unfair Employment Practices ("OSC") in the Civil Rights Division of the Department of Justice. You may do this by email at OSC-LCC-Claims@usdoj.gov or by phone at [DESIGNATED LINE].

Sincerely,