

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and entered into between United General Bakery, Inc., d/b/a Upper Crust Bakery ("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 8, 2018, IER opened an independent investigation of United General Bakery, Inc., d/b/a Upper Crust Bakery, DJ# 197-8-550, ("Investigation") to determine whether Respondent's employment eligibility verification practices violate the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b(a)(6) ("Act").

WHEREAS, IER concluded, based upon the Investigation, that there is reasonable cause to believe that Respondent engaged in a pattern or practice of unfair documentary practices against employees based on their citizenship status in violation of the Act. Specifically, IER concluded that Respondent requested that noncitizen employees provide Department of Homeland Security-issued employment eligibility documents for employment eligibility verification (Form I-9/E-Verify), and rejected other valid documents, such as identification documents and unrestricted Social Security cards, based on citizenship or immigration status. In contrast, Respondent permitted U.S. citizens to produce identification documents and unrestricted Social Security cards for employment eligibility verification without requiring them to produce specific or additional documents. Further, Respondent routinely requested additional and unnecessary Form I-9 documentation from lawful permanent residents when their Permanent Resident Cards expired.

WHEREAS, the Parties wish to resolve the Investigation without further delay or expense, and 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, 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 the Agreement shall be two years following the Effective Date.
2. Respondent shall pay a civil penalty payment to the United States Treasury in the amount of \$45,000. No later than five days after the Effective Date, Respondent shall give IER the name and contact information for the person(s) who will make the first payment on its behalf.

3. The monies discussed in Paragraph 2 shall be paid via the FedWire electronic fund transfer system as follows:
 - a. Respondent shall pay the first installment of \$11,250.00 within ten days of the Effective Date or receipt of fund transfer instructions from IER, whichever is later.
 - b. Respondent shall pay the second installment of \$11,250.00 within six months of the Effective Date or receipt of the second fund transfer instructions from IER, whichever is later.
 - c. Respondent shall pay the third installment of \$11,250.00 within 12 months of the Effective Date or receipt of the third fund transfer instructions from IER, whichever is later.
 - d. Respondent shall pay the fourth installment of \$11,250.00 within 18 months of the Effective Date or receipt of the fourth fund transfer instructions from IER, whichever is later.

On each day of payment, Respondent shall confirm payment via email to Jenna Grambort at Jenna.Grambort@usdoj.gov, or any other personnel IER designates in writing, that the payment was made, and include "DJ No. 197-8-550" in the subject line.

4. IER shall not seek from Respondent any additional civil penalty, beyond that referenced in Paragraphs 2 and 3, 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 Investigation through the Effective Date.
5. Pursuant to 8 U.S.C. § 1324b, Respondent shall not discriminate against individuals based on citizenship, immigration status, or national origin, during the recruitment, hiring, firing, and employment eligibility verification and re-verification process, or intimidate, threaten, coerce, or retaliate against any person for participation in the Investigation or exercise of any right or privilege secured by 8 U.S.C. § 1324b.
6. Within 14 days of the Effective Date, Respondent shall post, if it has not already done so, IER's "If You Have The Right to Work" poster ("IER Poster") (available at <https://www.justice.gov/crt/worker-information#poster>):
 - (a) in color;
 - (b) measuring no smaller than 18" x 24";
 - (c) in all places where notices to employees and job applicants are normally posted; and
 - (d) in English, Spanish, and any other available language that is the preferred language of Respondent's employees, if that language is

known.

The IER Poster shall remain posted for at least the term of the Agreement or the duration of Respondent's participation in E-Verify – whichever is longer.

7. Within 60 days of the Effective Date, Respondent shall create (or revise) and implement employment policies that contain the following provisions:
 - (a) Prohibit discrimination on the basis of citizenship, immigration status, or national origin: (1) in the hiring and firing process; and (2) during the Form I-9/E-Verify employment eligibility verification and reverification 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 statements that Respondent includes in printed or electronic materials available to the public or employees;
 - (c) Refer individuals who complain, formally or informally, of discrimination in the hiring, firing or Form I-9/E-Verify employment eligibility verification or reverification processes immediately 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 any individual 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.

8. During the term of this Agreement, Respondent shall ensure that all individuals involved in Respondent's hiring, firing, and employment eligibility verification and reverification processes (Form I-9 and E-Verify) (collectively, "Human Resources Personnel"), can readily access:
 - (a) the most current version of the USCIS Handbook for Employers (M-274) ("Handbook"), available at www.uscis.gov/I-9Central, and
 - (b) the most current version of the 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 Handbook, Manual and guidance can be obtained from the United States Citizenship and Immigration

Services at www.uscis.gov.

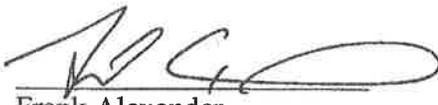
9. Within 90 days of the Effective Date, IER will train Respondent's Human Resources Personnel regarding their obligations to comply with 8 U.S.C. § 1324b, including the employment eligibility verification process as it relates to discrimination on the basis of citizenship, immigration status, and national origin.
 - (a) The training shall consist of viewing a free IER presentation conducted on the date(s) and time(s) as agreed upon by the Parties;
 - (b) Respondent will pay its employees their normal rate of pay during the training, and the training will occur during the employees' normally scheduled workdays and work hours. Respondent shall bear all employee costs, if any, 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 Jenna.Grambort@usdoj.gov within ten days of each training session; and
 - (d) For the term of the Agreement, all of Respondent's new Human Resources Personnel who assumed their duties after the initial training described in this paragraph shall attend an IER Employer/HR webinar within 60 days of hire or promotion. Respondent shall compile and send attendance records for these individuals pursuant to paragraph 9(c).
10. 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. Respondent shall comply with IER's requests within 30 days unless IER grants Respondent additional time to comply.
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 without opening an investigation. Respondent will have 30 days from the date of IER's notification to cure the violation to IER's satisfaction before IER deems Respondent to be in violation of this Agreement. IER will limit its requests under this Paragraph to actions either required under the terms of this Agreement, required to comply with 8 U.S.C. § 1324b, or appropriate to remedy a violation of § 1324b.
12. This Agreement does not affect the right of any individual to file a charge with

IER 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.

III. ADDITIONAL TERMS OF SETTLEMENT

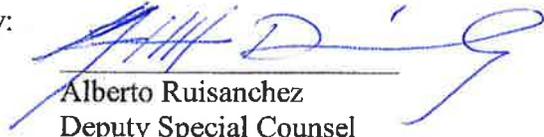
13. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the IER Investigation. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by the 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 and attachments (entitled "Terms of Settlement") are material terms, without waiver of any Party's right to argue that other terms in the Agreement are material.
14. The United States District Court for the District of Arizona 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 this 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.
15. 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.
16. 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.
17. The Parties shall each 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 agree to be bound by facsimile signatures.

United General Bakery Inc., d/b/a Upper Crust Bakery

By: 
Frank Alexander
Vice President/Chief Financial Officer

Dated: 7/25/19

Immigrant and Employee Rights Section

By: 
Alberto Ruisanchez
Deputy Special Counsel

Dated: 7-30-19

C. Sebastian Aloit
Special Litigation Counsel

Jenna Grambort
Trial Attorney