

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”), the terms of which are set forth in part II below, is made and entered into by and between Brickell Financial Services Motor Club, Inc. d/b/a Road America Motor Club, Inc. (“Respondent”) and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“Immigrant and Employee Rights Section” or “IER”), formerly known as the Office of Special Counsel for Immigration-Related Unfair Employment Practices.

I. BACKGROUND

WHEREAS, the Immigrant and Employee Rights Section accepted as complete a charge filed by an individual (“Charging Party”) against Respondent, identified as DJ Number 197-18-340, alleging that Respondent engaged in an unfair documentary practice that violated the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b (“Act”);

WHEREAS, on July 26, 2016, the Immigrant and Employee Rights Section notified Respondent that it had initiated an investigation based on the Charging Party’s charge, and on September 14, 2016, notified Respondent that it was expanding its investigation based on its authority under 8 U.S.C. § 1324b(d)(1) to determine whether the Respondent engaged in any pattern or practice of discrimination prohibited by 8 U.S.C. § 1324b;

WHEREAS, the Immigrant and Employee Rights Section concluded based upon its investigation that there is reasonable cause to believe that Respondent engaged in unfair documentary practices against work-authorized non-U.S. citizens based on their citizenship status in violation 8 U.S.C. § 1324b(a)(6). Specifically, IER’s investigation found evidence that Respondent: (1) required Lawful Permanent Residents, but not similarly-situated U.S. citizens, to present DHS-issued documents from “List A” of the Lists of Acceptable Documents for Form I-9 during the initial employment eligibility verification process because of their citizenship or immigration status; (2) subjected Lawful Permanent Residents to unnecessary reverification of their employment eligibility; and (3) caused at least one Lawful Permanent Resident to suffer loss of wages due to unnecessary reverification practices;

WHEREAS, Respondent has reinstated the Charging Party and provided her with back pay for the time she missed work due to the Respondent’s employment eligibility verification practices;

WHEREAS, the Immigrant and Employee Rights Section and Respondent (“Parties”) 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 the latest signature below, the Parties agree as follows:

II. TERMS OF SETTLEMENT

1. This Agreement becomes effective as of the date of the last signature on the dually-signed Agreement, which date is referenced hereafter as the "Effective Date." The "term of this Agreement" shall be two years following the Effective Date.
2. Respondent shall pay a civil penalty to the United States Treasury in the amount of thirty-four thousand two hundred dollars (\$34,200).
3. The monies discussed in paragraph 2 shall be paid via the FedWire electronic fund transfer system within ten (10) business days of Respondent's receipt of a fully signed copy of this Agreement and fund transfer instructions, which will be sent to Respondent's legal counsel, David Steffen. The Immigrant and Employee Rights Section will provide Respondent instructions for the FedWire electronic transfer. Respondent shall send a confirmation of the payment to Pablo.Godoy@usdoj.gov and Lorren.Love@usdoj.gov on the day the funds are transferred. The email confirming payment shall have Respondent's name and the investigation number, DJ # 197-18-340, printed in the subject line.
4. Respondent shall pay [REDACTED] one thousand and forty-four dollars (\$1,044.00), which includes backpay and accumulated interest on backpay. Respondent shall withhold applicable taxes.
5. The monies discussed in paragraph 4 shall be paid in the manner in which the Respondent regularly compensates [REDACTED], or, at her election, by company check made payable to [REDACTED] and delivered in person, by certified mail, or courier mail, within fourteen (14) days from the date Respondent receives a fully signed copy of this Agreement. A copy of such check shall be sent to Pablo.Godoy@usdoj.gov and Lorren.Love@usdoj.gov upon its issuance. The email transmitting a copy of the payment shall have Respondent's name and the investigation number, DJ # 197-18-340, printed in the subject line of the email.
6. In accordance with 8 U.S.C. § 1324b and 28 C.F.R. § 68.52, Respondent shall not:
 - a. discriminate on the basis of citizenship, immigration status or national origin in violation of 8 U.S.C. § 1324b.
 - b. discriminate in the employment eligibility verification and reverification process; Respondent shall (a) honor 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 request more or different documents than are required by law; and (c) permit all employees to present any document or combination of documents acceptable by law both at initial hire and during any lawful reverification of continued employment authorization.

- c. 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.
7. Respondent shall post an English and Spanish version of IER's "If You Have The Right to Work" poster ("IER Poster"), in color, 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 from the Effective Date and will remain posted during the term of this Agreement.
8. Throughout the term of this Agreement, Respondent shall provide a copy of the Lists of Acceptable Documents to individuals at the same time and in the same manner as Respondent provides them with the Form I-9 to complete, and shall inform those individuals of their right to choose to present any documentation that is on the Lists or is otherwise acceptable for purposes of employment eligibility verification.
9. During the term 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, 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 ninety (90) days of the Effective Date, Respondent shall review any existing employment policies and revise such policies, or develop and propose new policies, that relate to nondiscrimination in employment eligibility verification and reverification, including completion of the Form I-9, and provide them to IER. IER shall review and approve such policies, and Respondent shall implement the approved policies within one hundred and twenty (120) days after the Effective Date. These revised or new employment policies shall:
 - (a) prohibit discrimination on the basis of citizenship, immigration status, or national origin (1) in the hiring and firing process; (2) during the Form I-9 employment eligibility verification and reverification process; and (3) in any part of the E-Verify process, regardless of whether it is handled directly or through an agent;
 - (b) include citizenship, immigration status, and national origin as prohibited bases of discrimination; any similar Equal Employment Opportunity

(EEO) statements Respondent includes in printed or electronic materials available to the public or employees shall also include these prohibited bases of discrimination;

- (c) refer applicants and employees who complain, formally or informally, of discrimination in the hiring, firing, or Form I-9 employment eligibility verification and reverification process immediately to the Immigrant and Employee Rights Section by directing the affected individual to the IER Poster and IER's worker hotline and website, and advise the affected individual of his or her right to file a charge of discrimination with the Immigrant and Employee Rights Section; and
- (d) prohibit 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 term of this Agreement, Respondent shall provide any revisions to employment policies or practices relating to nondiscrimination on the basis of citizenship, immigration status or national origin to IER 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, all Human Resources Personnel and any other individuals who transmit Form I-9 information to E-Verify shall receive training on 8 U.S.C. § 1324b, the appropriate use of E-Verify, and the employment eligibility verification and reverification process as it relates to discrimination on the basis of citizenship, immigration status or national origin.
 - (a) The training will consist of viewing an Immigrant and Employee Rights Section webinar presentation and viewing an E-Verify for Existing Users webinar presentation by U.S. Citizenship and Immigration Services.
 - (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) During the term of the Agreement, all new Human Resources Personnel and personnel involved in the I-9 and E-Verify processes who are hired after the training described in this paragraph has been conducted shall attend an Immigrant and Employee Rights Section Employer/HR webinar training within sixty (60) days of hire or promotion.
 - (d) 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 Pablo.Godoy@usdoj.gov and

Lorren.Love@usdoj.gov within ten (10) days of each training session. The emails transmitting attendance records shall have Respondent's name and the investigation number, DJ # 197-18-340, printed in the subject line.

12. Within ninety (90) days of the Effective Date, all Human Resources Personnel and any authorized individuals who transmit Form I-9 information to E-Verify shall register for email updates from USCIS on the following topics by visiting <https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new>:
 - (a) Federal Register Announcements;
 - (b) Temporary Protected Status; and
 - (c) I-9 Central.
13. During the term of this Agreement, IER reserves the right to make such reasonable inquiries as it, in its discretion, believes necessary or appropriate to assess Respondent's compliance with this Agreement, including but not necessarily limited to, requiring written reports from Respondent concerning its compliance; inspecting Respondent's premises; examining Respondent's employees, officials or other persons; and requesting copies of Respondent's documents, including but not limited to E-Verify transaction histories and user audit reports for all employees Respondent has hired. Respondent shall provide such documents in electronic form unless the parties agree otherwise.
14. Every four months during the term of this Agreement, starting on June 1, 2017, Respondent shall provide IER with: a) a list of the names, hire date, and citizenship status of all individuals it has hired during the preceding four-month period; and b) a list of the names, hire date, and citizenship status of all individuals it has reverified during the preceding four-month period.
15. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 within three business days pursuant to 8 C.F.R. § 274a.2(b)(2)ii. Respondent shall provide such documents in electronic form unless requested otherwise.
16. If, during the term of this Agreement, IER has reason to believe that Respondent is in violation of any provision of this Agreement, IER shall, in its discretion, promptly notify Respondent of the purported violation. Respondent will be given thirty (30) days from the date it is notified by IER in which to cure the violation to the satisfaction of IER, before Respondent is deemed by IER to be in violation of this Agreement.
17. This Agreement does not affect the right of any individual to file a charge under the Act alleging an unfair immigration-related employment practice against Respondent, the authority of the Immigrant and Employee Rights Section to investigate or file a complaint on behalf of any such individual, or the authority of IER to conduct an independent investigation of Respondent's employment practices occurring after the Effective Date or outside of the scope of this investigation.

18. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between the parties relating to investigation, DJ # 197-18-340, through the Effective Date. The provisions of paragraph 2 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 investigation, designated as DJ # 197-18-340, through the Effective Date.
19. This Agreement may be enforced in the United States District Court for the Southern District of Florida. This provision does not constitute and should not be construed as a waiver by the United States of sovereign immunity, or any other jurisdictional or legal defense available to the United States.
20. IER and Respondent agree that, as of the Effective Date, litigation concerning the violations of 8 U.S.C. § 1324b that the Immigrant and Employee Rights Section 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.
21. 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 IER 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 is invalid.
22. IER and Respondent agree to bear their own costs, attorneys' fees and other expenses incurred in this investigation.
23. This Agreement sets forth the entire agreement between the Respondent and IER and fully supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter herein.
24. 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.

Brickell Financial Services Motor Club, Inc. d/b/a Road America Motor Club, Inc.

By: 

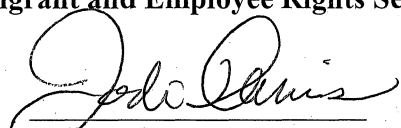
[Name]
[Title]

Dated: 05/04/2017

Regional Mgr NA Region

Immigrant and Employee Rights Section

By:



Jodi Danis

Acting Deputy Special Counsel

Dated:

4/6/17

Pablo A. Godoy
Trial Attorney