

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into by and between the United States of America, acting through the United States Department of Justice and on behalf of the United States Small Business Administration (“SBA”) (the “United States”); Aidan Forsyth (“Relator”); certain companies as defined below (“HCC” or the “Companies”); Herbert G. Chambers (“Chambers”); and James Duchesneau (“Duchesneau”) (hereinafter HCC, Chambers, and Duchesneau are collectively referred to as the “Released Parties”); and the United States, Relator, and the Released Parties are collectively referred to as the “Parties”), through their authorized representatives.

### **RECITALS**

A. For purposes of this Agreement, HCC or the Companies are defined to include eight companies: Jennings Road Management Corp., Herb Chambers 395 Broadway Inc., Herb Chambers 1168 Inc., Herb Chambers Cambridge Street Inc., Herb Chambers 1172 Inc., Herb Chambers of Wayland Inc., Dave Dinger Ford Inc., and Herb Chambers of Millbury Inc.

B. Chambers is the individual beneficiary owner of each of the eight HCC entities and at least twenty-one other companies. All twenty-nine companies primarily operate or provide consulting services to car dealerships within New England.

C. Duchesneau is an Officer for each of the Companies.

D. The SBA is an independent agency of the United States government that provides aid, counsel, and assistance to small businesses and entrepreneurs. The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Section 1102, vested the SBA with the responsibility of managing the Paycheck Protection Program (“PPP”) under the SBA’s 7(a) Loan Program. The PPP was a federal program that provided emergency relief to small businesses affected by the COVID-19 pandemic. *See* 15 U.S.C. § 636(a)(36).

E. The SBA administered the PPP and guaranteed loans that were made according to PPP rules. To apply for PPP funding, a business or entity had to certify that it met the requirements of the program.

F. On May 2, 2024, Aidan Forsyth filed a qui tam action in the United States District Court for the District of Massachusetts captioned *United States of America ex rel. Aidan Forsyth v. Herb Chambers 395 Broadway Inc., et al.*, No. 24-CV-11177-PBS, pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). Relator alleged the Companies violated the False Claims Act because the Companies submitted false applications for and received PPP funds from the SBA in excess of a \$20 million cap that SBA imposed on entities with a “common parent.”

G. The Companies received credit under the Department of Justice’s guidelines for taking disclosure, cooperation, and remediation into account in False Claims Act cases, Justice Manual § 4-4.112. Among other actions, the Companies timely produced materials, identified documents most relevant to the United States’ investigation, waived privilege, and provided cooperation in the government’s ongoing investigation of other participants in the alleged conduct.

H. The United States contends it has civil claims against the Released Parties for submitting or causing the submission of false claims to the SBA arising from the Companies’ certifications on their applications for certain PPP loans, and their receipt of funds from and forgiveness of those loans.

I. The Released Parties admit, acknowledge, and accept responsibility for the following facts:

1. Each HCC entity is a separate Subchapter S legal entity with an individual tax identification number. Each entity has an individual beneficiary owner, Chambers, and is not owned by a corporate parent company.
2. In April 2020, 29 companies owned by Chambers—8 of which are the HCC entities—submitted PPP loan applications through Bank of America (“BOA”) for a total of \$30,290,020.50.
3. As of April 30, 2020, SBA had not yet funded the PPP loan applications of the 8 HCC entities (the “Eight Subject Loans”).
4. On April 30, 2020, SBA published an Interim Final Rule (“IFR”) setting a \$20 million maximum loan eligibility for corporate groups. “To preserve the limited resources available to the PPP program,” SBA imposed the limit on businesses that are “majority owned, directly or indirectly, by a common parent” for any loans that were not fully disbursed as of April 30, 2020.  
<https://www.federalregister.gov/documents/2020/05/04/2020-09576/business-loan-program-temporary-changes-paycheck-protection-program-requirements-corporate-groups>. The IFR did not provide a definition for the term “common parent.”
5. On May 1, 2020, BOA informed Duchesneau that it planned to hold off on funding the Eight Subject Loans in light of the new IFR’s \$20 million maximum loan eligibility for corporate groups as “clarifications and interpretations of this program continue to evolve.”

6. On June 2, 2020, BOA sent cancellation letters for the pending Eight Subject Loans.
7. The Companies sought opinions from multiple, independent professional advisors seeking advice as to whether the IFR applied to the PPP loans for which they applied. The Companies received conflicting advice as to whether the \$20 million maximum loan eligibility for corporate groups applied to the Eight Subject Loans.
8. On July 6, 2020, each Company submitted an online request through Eastern Bank for SBA eligibility to fund the Eight Subject Loans. Duchesneau informed Eastern Bank that BOA declined to process the Eight Subject Loans because of the IFR. Eastern Bank did not accept the loan applications because of the IFR.
9. Later in July 2020, Duchesneau reached out to U.S. Bank regarding the Eight Subject Loans.
10. On July 14, 2020, each Company submitted a request to U.S. Bank for SBA to fund the Eight Subject Loans. Duchesneau told U.S. Bank that BOA had cancelled the loans because of the IFR's \$20 million maximum loan eligibility for corporate groups. U.S. Bank accepted the applications, and SBA funded the loans.
11. Between April and June 2021, SBA forgave the Eight Subject Loans for a total, including interest, of \$7,659,391.13.

J. The foregoing conduct described in paragraph I, including subparagraphs, is hereinafter referred to as the “Covered Conduct.” The United States contends that, as a result of the Covered Conduct, the Released Parties caused the submission of false claims to the SBA.

K. With the exception of the Covered Conduct, the Released Parties expressly deny the allegations of Relator as set forth in the Civil Action.

In consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

#### TERMS AND CONDITIONS

1. The Released Parties shall pay to the United States the sum of \$11,841,143.21, of which \$7,894,095.47 is restitution, plus interest at a rate of five percent (5%) from March 11, 2025, and continuing through the date of payment (the “Settlement Amount”), no later than ten (10) days after the Effective Date of this Agreement pursuant to written instructions to be provided by the Office of the United States Attorney for the District of Massachusetts. The Released Parties are jointly and severally liable for the Settlement Amount. .

2. Conditioned upon the United States receiving the Settlement Amount and as soon as feasible after receipt, the United States shall pay \$1,184,114.32 to Relator by electronic funds transfer (“Relator’s Share”).

3. Within thirty (30) days of the Effective Date of this agreement, HCC shall pay to Relator the sum of \$29,192.50 for expenses and attorneys’ fees and costs pursuant to 31 U.S.C. § 3730(d). Immediately upon execution of this Agreement, Relator shall provide wire instructions to HCC in order to effectuate this payment.

4. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and upon the United States’ receipt of the Settlement Amount, the United States releases the Released Parties from any civil or administrative monetary claim the United States has for the

Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, the Administrative Remedies for False Claims Act, 31 U.S.C. §§ 3801-3812, or the common law, including without limitation theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

5. Notwithstanding the release given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, or any administrative remedy, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; and
- f. Any liability of any individuals not released pursuant to this Agreement.

6. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of Relator's Share, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

7. Conditioned upon his receipt of the payment from HCC described in Paragraph 3, Relator, for himself and his heirs, successors, attorneys, agents, and assigns, releases HCC and their past, current, and future owners, shareholders, officers, directors, and employees, from any and all liability, claims, allegations, demands, actions, and causes of action whatsoever in law or equity, that Relator has or could have asserted in the Civil Action, including but not limited to the civil monetary claim that Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

8. The Released Parties waive and shall not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

9. The Released Parties fully and finally release the United States and its agencies, officers, agents, employees, and servants from any claims (including for attorneys' fees, costs, and expenses of every kind and however denominated) that the Released Parties have asserted, could have asserted, or may assert in the future against the United States or its agencies, officers, agents, employees, or servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

10. HCC fully and finally releases Relator from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that HCC has asserted, could have

asserted, or may assert in the future against Relator, related to the Covered Conduct and Relator's investigation and prosecution thereof.

11. The Released Parties agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of the Released Parties, and their present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;
- (3) the Released Parties' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment the Released Parties make to the United States and Relator pursuant to this Agreement, are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by the Released Parties, and the Released Parties shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.



c. Treatment of Unallowable Costs Previously Submitted for Payment:

Within 90 days of the Effective Date of this Agreement, the Released Parties shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by the Released Parties or any of their subsidiaries or affiliates from the United States. The Released Parties agree that the United States, at a minimum, shall be entitled to recoup from the Released Parties any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine the Released Parties' books and records and to disagree with any calculations submitted by the Released Parties or any of their subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by the Released Parties, or the effect of any such Unallowable Costs on the amount of such payments.

12. This Agreement is intended to be for the benefit of the Parties only.

13. Upon receipt of the payments described in Paragraphs 1 and 3, above, the United States and Relator shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal. The Joint Stipulation of Dismissal shall state that: (1) claims for the allegations described in the Covered Conduct are dismissed with prejudice to the United States; (2) all other claims in the Civil Action, including claims under 31 U.S.C. §§ 3729-3733, shall be dismissed without prejudice to the United States; and (3) all claims in the Civil Action shall be dismissed with prejudice as to Relator.

14. Subject to Paragraph 3, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

16. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Massachusetts. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

17. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

18. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

19. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

20. This Agreement is binding on the Released Parties' successors, transferees, heirs, and assigns.

21. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

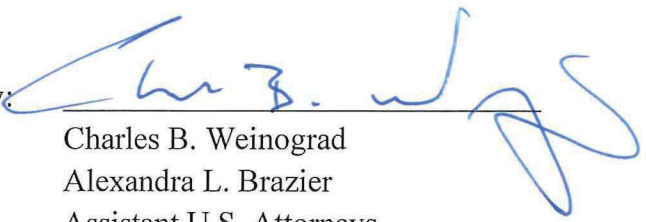
22. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

23. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

THE UNITED STATES OF AMERICA

4/9/25  
Date


By:   
Charles B. Weinograd  
Alexandra L. Brazier  
Assistant U.S. Attorneys  
United States Attorney's Office  
District of Massachusetts

HCC / COMPANIES

4-7-2025  
Date

By:   
Nicolas Gennetti  
Authorized Corporate Officer for HCC

4/8/25  
Date


By:   
Ian J. Pinta  
Ingrid S. Martin  
Todd & Weld LLP  
Counsel for HCC

HERBERT G. CHAMBERS

Date

4/7/25

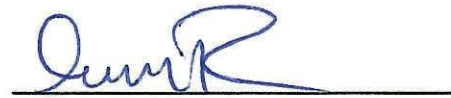
By:

  
Herbert G. Chambers

Date


4/8/25

By:


  
Ian J. Pinta  
Ingrid S. Martin  
Todd & Weld LLP  
Counsel for Herbert G. Chambers

JAMES DUCHESNEAU

4-7-25  
Date

By:   
James Duchesneau

4/8/25  
Date

By:   
Ian J. Pinta  
Ingrid S. Martin  
Todd & Weld LLP  
Counsel for James Duchesneau

RELATOR AIDAN FORSYTH

4/7/2025

\_\_\_\_\_  
Date

By:



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Aidan Forsyth  
Relator

4.7.25

\_\_\_\_\_  
Date

By:



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Christine M. Kingston  
Nystrom Beckman Paris LLP  
Eric H. Jaso  
Spiro Harrison & Nelson  
Counsel for Aidan Forsyth