

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Taiyo International, Inc. (“Respondent”) and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“IER”) (collectively “Parties”).

### I. BACKGROUND

WHEREAS, on September 17, 2018, IER accepted as complete a charge by [REDACTED] (“Charging Party”) against Respondent, DJ no. 197-39-137 (“Charge”), alleging violations of the antidiscrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b.

WHEREAS, IER investigated the Charge (“Investigation”) and Respondent participated in the Investigation and timely provided information to IER.

WHEREAS, after the Investigation, IER determined that there is reasonable cause to believe that, on September 15, 2018, Respondent retaliated against the Charging Party in violation of 8 U.S.C. § 1324b(a)(5) by rescinding an offer of employment because the Charging Party exercised rights protected under 8 U.S.C. § 1324b.

WHEREAS, Respondent asserted and maintains that it did not retaliate and rescinded its offer of employment for legitimate business reasons; however, Respondent has accepted this settlement because of the substantial expense of further legal proceedings.

WHEREAS, the Parties wish to resolve the Investigation without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement.

NOW, THEREFORE, in consideration of the below mutual promises and to fully and finally resolve the Investigation, as of the date of this Agreement, the Parties agree as follows:

### II. TERMS OF AGREEMENT

- (1) This Agreement shall become effective as of the date the last party signs the Agreement (“Effective Date”). The term of this Agreement is 36 months following the Effective Date.
- (2) Respondent shall pay a civil penalty to the United States Treasury in the amount of \$1,900.00 via the FedWire electronic fund transfer system within 15 calendar days of the Effective Date or Respondent’s receipt of fund transfer instructions from IER, whichever is later. On the day of payment, Respondent shall confirm this payment via email to William Hanrahan at [william.hanrahan@usdoj.gov](mailto:william.hanrahan@usdoj.gov) (or any other individual IER designates). The email confirming payment and all other emails from Respondent to IER under this Agreement shall have Respondent’s name and the DJ number (197-39-137) in the subject line.
- (3) Within 15 calendar days of the Effective Date, Respondent or its counsel shall email Charging Party at [REDACTED] with a CC to [william.hanrahan@usdoj.gov](mailto:william.hanrahan@usdoj.gov) a signed copy of the attached Release of Claims Agreement and a blank IRS Form W-4 or link thereto, which is available at <https://www.irs.gov/pub/irs-pdf/fw4.pdf>. The email shall

inform Charging Party that, in order to receive the payment referenced in paragraph 4 of this Agreement, she must sign the Release of Claims Agreement, complete the Form W-4, and send the signed Release of Claims Agreement and completed Form W-4 to Respondent's counsel either by (a) email at [sam.diehl@saul.com](mailto:sam.diehl@saul.com) or (b) by Certified Mail, return receipt requested, to Samuel Diehl, Saul Ewing Arnstein & Lehr LLP, 33 South Sixth Street, Suite 4750, Minneapolis, MN 55402.

- (4) Within 30 calendar days of Respondent's counsel's receipt of the Charging Party's IRS Form W-4 and Release of Claims Agreement executed with Charging Party's and Respondent's signatures, Respondent shall issue and send by Certified Mail or overnight courier to the address provided on the W-4 a check made out to [REDACTED] for back pay and interest in the gross amount of \$10,400.00 less any tax deductions and withholdings required by law. On the day the check is sent, Respondent shall confirm this payment via email to William Hanrahan at [william.hanrahan@usdoj.gov](mailto:william.hanrahan@usdoj.gov) (or any other individual IER designates in writing to Respondent's attorney).
- (5) Within 10 calendar days of the Effective Date, Respondent shall provide IER with the name, title, email address, and phone number of the individual(s) responsible for effectuating payment of the payments referenced in paragraphs (2) and (4) via email to William Hanrahan at [william.hanrahan@usdoj.gov](mailto:william.hanrahan@usdoj.gov) (or any other individual IER designates).
- (6) Within 45 calendar days after remitting the Charging Party's W-2 form for calendar year 2020 to the Social Security Administration (but not before doing so), Respondent shall file a special report to the Social Security Administration allocating the payment made to the Charging Party pursuant to paragraph (4) to the appropriate periods. On the day Respondent submits the documentation, Respondent shall confirm via email to William Hanrahan at [william.hanrahan@usdoj.gov](mailto:william.hanrahan@usdoj.gov) (or any other individual IER designates) that such documentation was submitted to the Social Security Administration and the date on which it was submitted.
- (7) Respondent shall refer all applicants and employees who complain, formally or informally, of discrimination or improprieties in Taiyo's hiring, firing, or employment eligibility verification ("EEV") processes to IER's worker hotline (800-255-7688) and website (<http://www.justice.gov/ier>) and advise the affected individual of his or her right to file a charge of discrimination with IER if he or she believes Taiyo may have discriminated against him or her in violation of the antidiscrimination provision of the INA.
- (8) In accordance with 8 U.S.C. § 1324b:
  - (a) Respondent shall not discriminate on the basis of citizenship status (which includes immigration status) in its hiring, recruitment, or discharge, except to the extent such discrimination is required in order for Respondent to comply with a law, regulation, executive order, government contract, or Attorney General determination.
  - (b) Respondent shall not discriminate on the basis of national origin in its hiring, recruitment, or discharge processes.

- (c) Respondent shall not discriminate on the basis of citizenship status or national origin during the EEV process.
  - (d) Respondent shall (i) honor all EEV documentation that satisfies the requirements of 8 U.S.C. § 1324a(b) and reasonably appears to be genuine and to relate to the person presenting it, (ii) not request more or different documentation than required by law for EEV; (iii) not request specific documentation for EEV; and (iv) permit all employees to present their choice of document(s) from the Form I-9 Lists of Acceptable Documents for EEV, including for reverification when reverification is required by law.
  - (e) Respondent shall not intimidate, threaten, coerce, or retaliate against any person for the purpose of interfering with a right or privilege secured by 8 U.S.C. § 1324b or because of the person's participation in any IER investigation, intention to file a charge with IER, or exercise of any other right or privilege secured by 8 U.S.C. § 1324b, including, but not limited to, complaining formally or informally about or opposing conduct that the person believes violates 8 U.S.C. § 1324b.
- (9) Respondent shall remove any reference to the Investigation, this Agreement, or the Charge from the Charging Party's personnel file or any other employment records and shall not in the future make any reference thereto, except as required to comply with this Agreement or applicable state or federal law.
- (10) Respondent shall not, directly or indirectly, disclose to any employer or prospective employer of the Charging Party any information or documentation related to the Investigation, this Agreement, or the Charge.
- (11) Respondent shall, within 10 calendar days of the Effective Date, post an English version and Spanish version of the IER "If You Have The Right to Work" poster ("IER Poster") in color measuring no smaller than 8.5" x 11" (available at <https://www.justice.gov/crt/worker-information#poster>) in all places where Respondent normally posts notices to employees and job applicants and shall keep them posted for at least the term of this Agreement.
- (12) Respondent shall ensure the following materials are readily available to all individuals with job duties that involve reviewing applications, interviewing job candidates, verifying work authorization (e.g., requesting documentation for EEV, completing sections 2 or 3 of the Form I-9, etc.), making hiring decisions, or making termination decisions:
- (a) The most current version of the Form I-9 (available at [https://www.uscis.gov/system/files\\_force/files/form/i-9.pdf?download=0](https://www.uscis.gov/system/files_force/files/form/i-9.pdf?download=0));
  - (b) The most current Form I-9 Instructions (available at [https://www.uscis.gov/system/files\\_force/files/form/i-9instr.pdf?download=0](https://www.uscis.gov/system/files_force/files/form/i-9instr.pdf?download=0)); and
  - (c) The most current USCIS Employment Eligibility Verification Handbook for Employers (M-274) (available at <https://www.uscis.gov/i-9-central/handbook-employers-m-274>).

- (13) Within 60 calendar days of the Effective Date, Respondent shall review all of its existing employment policies, training materials, and guidelines that relate to equal opportunity/nondiscrimination or the duties mentioned in paragraph (12) above and revise them to reflect the requirements of paragraph (7) and subparagraphs (8)(a)-(e) above.

Respondent shall send to IER via email all such revised materials within 10 calendar days of completing the revisions. Within 45 days thereafter, IER may provide edits regarding such revisions. Respondent shall incorporate any edits from IER to develop and implement final versions of the revised materials within 45 days after IER provides such edits.

- (14) Within 90 calendar days of the Effective Date, each Respondent employee with one or more of the job duties set forth in paragraph (12) above shall participate in training on 8 U.S.C. § 1324b.

- (a) The training will consist of viewing a free internet-based IER Employer/HR Representative webinar (registration available at <https://www.justice.gov/crt/webinars#ier%20webinars>).
- (b) Respondent shall pay each employee who attends the training his or her normal rate of pay for the time spent at the training and shall bear all costs associated with the training.
- (c) Within 15 calendar days of the training, Respondent shall compile and send via email to William Hanrahan at [william.hanrahan@usdoj.gov](mailto:william.hanrahan@usdoj.gov) (or any other individual IER designates) attendance records listing all individuals who attended the training, including each attendee's full name, job title, and signature certifying attendance at the training.
- (d) Each Respondent employee hired or transferred by Respondent into a position with one or more of the job duties listed in paragraph (12) after the Effective Date of this Agreement but during the term of this Agreement who has not already participated in such training shall participate in a free IER Employer/HR Representative webinar (registration available at <https://www.justice.gov/crt/webinars#ier%20webinars>) within ninety (90) days of the date of his or her hire or transfer to such position.

- (15) 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 limited to, requiring written reports from Respondent concerning its compliance; inspecting Respondent's premises; interviewing Respondent's employees, officials, or other persons; and reviewing copies of Respondent's records.

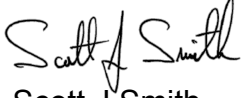
- (16) Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 within three business days pursuant to 8 C.F.R. § 274a.2. Upon IER's request, Respondent shall

provide copies of its Forms I-9 and supporting documentation and, if available or exportable, its Form I-9 data in spreadsheet format via email within 15 calendar days of IER's request.

- (17) 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 before initiating a new discrimination investigation or seeking to judicially enforce the Agreement. Respondent shall have 30 calendar days from the date IER notifies it of a purported violation to cure the violation to IER's satisfaction.
- (18) This Agreement does not affect the right of any individual to file a charge alleging an unfair immigration-related employment practice against Respondent, IER's authority to investigate such a charge, or IER's authority to conduct an independent investigation of Respondent's employment practices.
- (19) This Agreement resolves any and all differences under 8 U.S.C. § 1324b between the Parties relating to the Investigation or the Charge.
- (20) The United States District Court for the District of Minnesota 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 the 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.
- (21) For the purposes of an action to enforce this agreement, the parties agree that the obligations set forth in each and every provision of Part II of this Agreement are material.
- (22) If a court declares any provision of this Agreement to be illegal or invalid, the validity of the remaining provisions shall not be affected. The Parties agree that they will not, individually or with or through another, seek to have any court declare or determine that any provision of this Agreement is invalid. For purposes of interpreting this agreement, both parties shall be deemed to have drafted it.
- (23) 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 obligations imposed by this Agreement.
- (24) The parties agree to bear their own costs, attorneys' fees, and other expenses incurred in this investigation.
- (25) This Agreement sets forth the entire agreement between the Parties concerning resolution of this Investigation and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the subject matter herein.

(26) The Parties may execute this Agreement 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 electronic or facsimile signatures.


Taiyo International, Inc.



By: Scott J Smith

Date: April 1, 2020

Immigrant and Employee Rights Section

By: 

Date: 4/7/20

Alberto J. Ruisanchez  
Deputy Special Counsel

C. Sebastian Aloom  
Special Litigation Counsel

William J. Hanrahan  
Trial Attorney