

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into by and between Onin Staffing, LLC (“Respondent”), and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“IER”) (collectively, “the Parties”).

I. BACKGROUND

WHEREAS, on March 9, 2018, IER notified Respondent that it had initiated an independent investigation of Respondent’s employment eligibility verification practices, DJ # 197-1-41 (the “Investigation”) to determine whether Respondent violated 8 U.S.C. § 1324b;

WHEREAS, IER concluded, based upon its Investigation, that there is reasonable cause to believe that Respondent’s McAllen, Texas location had a pattern or practice of requesting more, different, or specific employment eligibility documents from non-U.S. citizens employees, based on the employee’s citizenship or immigration status, in violation of 8 U.S.C. § 1324b(a)(6), from at least May 2018 until at least May 2019;

WHEREAS, the Parties wish to resolve the Investigation without further delay or expense, and hereby acknowledge that each party is voluntarily 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 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 to the United States Treasury in the amount of \$70,695 for the above-referenced unfair documentary practices. No later than five days after the Effective Date, Respondent shall give IER the name and contact information for the person who will make the payment on its behalf. After IER receives this information, it will send the person the FedWire payment instructions. Respondent shall pay the monies discussed in this paragraph via the FedWire electronic fund transfer system, within ten days of receiving IER’s FedWire instructions. On the day of payment, Respondent shall confirm via email to Liza Zamd at Liza.Zamd@usdoj.gov that the payment was made.
3. 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 are the subject of the Investigation, through the Effective Date.
4. 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 reverification processes

(together, the “EEV” process), or intimidate, threaten, coerce, or retaliate against any person for participating in the Investigation or exercise of any right or privilege secured by 8 U.S.C. § 1324b.

5. Within 14 days of the Effective Date, Respondent shall post in its McAllen Texas, location, 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 8.5” x 11”;
 - (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, notwithstanding any separate or additional obligation Respondent may have to keep it posted beyond that date.

6. Within 60 days of the Effective Date, Respondent will review any existing employment policies that relate to nondiscrimination based on legally protected traits or characteristics. Respondent will, as needed, revise or create policies to ensure that they:
 - (a) Prohibit requesting more or different documents, specifying documents, or rejecting valid documents, because of an individual’s citizenship, immigration status or national origin in the hiring and firing process, and 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 in McAllen, Texas 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
 - (d) Prohibit any reprisal action against any individual for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, for filing any charge, or participating in any lawful manner in any IER investigation or action with IER.
7. During the term of this Agreement, Respondent shall ensure that all individuals involved in Respondent’s EEV processes in McAllen, Texas, as well as any individuals who have any role in supervising or assisting such employees (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.

8. Within 90 days of the Effective Date, Respondent will ensure that all Human Resources Personnel are trained regarding their obligations to comply with 8 U.S.C. § 1324b.
 - (a) At IER’s discretion, the training shall consist of one or more live presentation(s) or recorded webinar(s) that IER conducts, creates, or approves;
 - (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, and the date of the training, and send them via email to Liza.Zamd@usdoj.gov (or any other individual IER designates) within ten days of each training session; and
 - (d) For the term of the Agreement, all new Human Resources Personnel who assumed their duties after the initial training described in this paragraph shall view an IER approved webinar within 60 days of hire or promotion. Respondents shall compile and send attendance records for these individuals pursuant to Paragraph 10(c).
9. Within 120 days of the Effective Date, Respondent shall provide all Human Resources Personnel with training that assesses their understanding of proper Form I-9 and E-Verify processes as follows:
 - (a) Respondent shall require these individuals to answer 20 multiple choice measurement and assessment questions that IER provides Respondent. The individuals answering the measurement and assessment questions may refer to written government resources, including but not limited to, the Form I-9 and its instructions, the Handbook, the Manual, and/or USCIS’s I-9 Central website, when answering the questions. Respondent shall review and score each individual’s responses to the questions.


- (b) If any individual answers a question incorrectly, Respondent shall, within three days, require the individual who answered incorrectly to read one or more of the government resources outlined in Paragraph 7 and answer the question(s) again until the individual answers the question(s) correctly. Within 10 days after completion of the measurement and assessment described in this paragraph, Respondent will provide via email to Liza.Zamd@usdoj.gov (or any other individual IER designates):
- i. A list of the questions any individual answered incorrectly, and the incorrect answer(s) each individual selected; and
 - ii. A confirmation/certification that the assessment was given to all Human Resources Personnel and that Respondent complied with all provisions in Paragraph 9 of the Agreement.
10. Within 120 days of the Effective Date and to the extent Respondent continues to use electronic Form I-9 software, Respondent will modify, or take all steps necessary to ensure its agent modifies, its electronic Form I-9 system to comply with Form I-9 requirements, including: 1) permitting all individuals who select the Alien Authorized to Work (AAW) citizenship attestation to write or select "N/A" in the expiration date field; 2) stating "Some aliens may write 'N/A' in the expiration date field. (See instructions)" adjacent or below the AAW expiration date field.
11. Within five days of the Effective Date and to the extent Respondent continues to use electronic Form I-9 software Respondent will modify, or take all steps necessary to ensure its agent modifies, its electronic Form I-9 system to comply with Form I-9 requirements, including: 1) not soliciting more information for Sections 1 or 2 than what is required on the Form I-9; and 2) ensuring that Section 3 information (if any) is reflected in all permutations of Respondent's Form I-9 data production.
12. 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.
13. 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.
14. 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

15. 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 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.
16. The United States District Court for the Northern District of Alabama 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.
17. 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.
18. The Parties agree that, as of the Effective Date, litigation concerning the violations of 8 U.S.C. § 1324b that are the subject of the Investigation 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.
19. The Parties shall each bear their own costs, attorneys' fees and other expenses incurred in this action.
20. 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.

Onin Staffing, LLC

By:

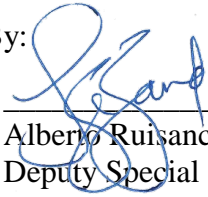


Teresa Dole
HR Manager

Dated: 12/3/19

Immigrant and Employee Rights Section

By:



Alberto Ruisanchez
Deputy Special Counsel

Dated: 12/6/19

Jodi Danis
Special Litigation Counsel

Liza Zamd
Senior Trial Attorney

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