

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is entered into by and between ASTA CRS, Inc. (“Respondent”), and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“IER”) (collectively, “the parties”).

I. BACKGROUND

WHEREAS, on August 9, 2019, Respondent posted a job advertisement on Indeed.com seeking specific non-U.S. citizen applicants, including students who hold F-1 nonimmigrant visas, for entry-level positions (hereinafter “the August 2019 Job Posting”);

WHEREAS, on August 13, 2019, IER received two complaints from U.S. citizens (“IER Charges”), alleging, among other things, that Respondent posted an advertisement preferring non-U.S. citizens on certain temporary work visas over U.S. workers, in violation of the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b;

WHEREAS, IER notified Respondent on December 11, 2019, that it had initiated investigation of the IER Charges, which could include investigating any potential violation of § 1324b;

WHEREAS, on the basis of its investigation, DJ no. 197-79-558, IER concluded that by soliciting applications only from applicants with certain non-U.S. citizen immigration statuses and referencing the need for specific work permits that can only be obtained by non-U.S. citizens on certain temporary visas, Respondent’s job advertisement unlawfully excluded U.S. citizens, lawful permanent residents, refugees, and asylees from applying for the job opportunity, in violation of 8 U.S.C. § 1324b(a)(1);

WHEREAS, Respondent contests that its actions were unlawful and maintains that it has not violated 8 U.S.C. § 1324b(a)(1); and

WHEREAS, the parties wish to resolve IER’s investigation and avoid contested litigation 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 IER investigation as of the date of this Agreement, the parties agree as follows:

II. TERMS OF SETTLEMENT

1. This Agreement shall become effective as of the date the last party signs the Agreement, referred to as the “Effective Date.” The term of this Agreement is two (2) years following the Effective Date.
2. This Agreement resolves any and all differences between the parties with respect to IER’s

investigation designated as DJ no. 197-79-558 through the Effective Date. IER shall not seek from Respondent any additional relief beyond that referenced in this Agreement, for the alleged violation of 8 U.S.C. § 1324b(a)(1) that is the subject of the investigation through the Effective Date.

3. Respondent shall not discriminate based on citizenship or immigration status, or national origin, at any stage in the hiring, recruiting, or onboarding process, in violation of 8 U.S.C. § 1324b. Respondent shall not advertise, include or employ hiring restrictions based on citizenship or immigration status in violation of 8 U.S.C. § 1324b unless required to comply with law, regulation, executive order, or government contract.
4. Within ten (10) days of the Effective Date, Respondent shall remove, and shall request and cause to be removed from all third-party websites, all of its job advertisements that refer to a specific citizenship, immigration, or employment-based visa status, unless such reference is required to comply with law, regulation, executive order, or government contract.
5. Respondent shall refrain from posting any job advertisements on its own website and on any third-party website, job board, or job portal that refer to a specific citizenship, immigration, or employment-based visa status unless such status is required to comply with law, regulation, executive order, or government contract, and shall ensure that its job postings do not include any preference for or targeting of applicants who are non-U.S. citizens on temporary work visas, in violation of 8 U.S.C. § 1324b.
6. Within thirty (30) days of the Effective Date, Respondent shall review its recruiting and hiring policies and revise and implement them to:
 - a. Prohibit discrimination on the basis of citizenship, immigration status, and national origin in the recruitment, hiring and firing processes.
 - b. Prohibit job advertisements that reference an applicant's specific citizenship, immigration status or national origin in violation of 8 U.S.C. § 1324b unless required by law, regulation, executive order, or government contract.
 - c. Establish a process for supervisory review of the title and body of all recruiter's job postings before publication to ensure they do not incorporate references to, or preferences for, a specific citizenship, immigration or employment-based visa status, in violation of 8 U.S.C. § 1324b.
7. During the term of this Agreement, Respondent shall provide semi-annual reports to IER, on June 30 and December 31 of each year, that include copies of all job advertisements posted by or on behalf of Respondent in the past six (6) months, along with the name, immigration status, visa status (if applicable), sponsorship needs (if applicable), and most recent contact information (phone number, home address, and email address) of each individual Respondent referred to clients for consideration and/or hired. The reporting requirements set forth in this paragraph shall apply only to job advertisements placed and candidates referred by Respondent's Maryland office.

8. Within ninety (90) days of the Effective Date, Respondent shall ensure that all individuals with any responsibility for recruiting, referring, and hiring are trained on their obligation to comply with 8 U.S.C. § 1324b.
 - a. The training will consist of viewing a free online IER Employer/HR webinar presentation or, subject to the mutual agreement of the parties, an in-person IER presentation.
 - b. Respondent will pay all individuals their regular rate of pay during the training, and such trainings 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 this Agreement, all new staff Respondent hires or selects into positions or roles with recruitment, referral, or hiring responsibilities shall view a free IER Employer/HR webinar within sixty (60) days of hire or selection.
 - d. Respondent shall email a list of the individuals who completed the trainings in this paragraph, including their full name, title, hire date, and training date, to Craig.Fansler@usdoj.gov or another subsequently agreed-upon IER designee within ten (10) days of completion of each training session.
9. During the term of this Agreement, IER reserves the right to make reasonable inquiries to Respondent as necessary to determine Respondent's compliance with this Agreement.
10. If IER has reason to believe that Respondent is in violation of any provision of this Agreement during the term of this Agreement, IER may, in its sole discretion, notify Respondent of the purported violation without opening an investigation. Upon such notification, Respondent shall have fifteen (15) days to provide an explanation regarding the purported violation. In the event that Respondent's explanation does not satisfy IER's concern, Respondent will then have thirty (30) days from the date of IER's original notification to cure the purported violation to IER's satisfaction before IER deems Respondent to be in violation of this Agreement.
11. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 pursuant to 8 C.F.R. § 274a.2(b)(2)(ii).
12. This Agreement does not affect the rights of any individual alleging an unfair immigration-related employment practice against Respondent, IER's authority to investigate or file a complaint on behalf of any such individual, or IER's authority to conduct an investigation of Respondent's employment practices occurring after the Effective Date or outside the scope of the investigation.


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 subject

matter herein. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by both 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 (entitled “Terms of Settlement”) are material terms, without waiver of either parties’ right to argue that other terms in the Agreement are material.

14. This Agreement may be enforced in the United States District Court for the District of Maryland, Northern Division. This paragraph, or the initiation of a lawsuit to enforce the Agreement under this paragraph, including any counterclaims asserted, does not constitute and should not be construed as a waiver of sovereign immunity or any other defense either party might have against a claim for enforcement.
15. The parties agree that, as of the Effective Date, litigation concerning the alleged violation of 8 U.S.C. § 1324b that is the subject of the IER 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.
16. 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, and the term or provision shall be deemed not to be a 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.
17. The parties agree to bear their own costs, attorneys’ fees and other expenses incurred in this investigation.
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 shall be bound by facsimile signatures.

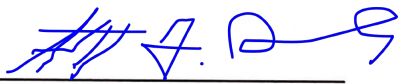
ASTA CRS, Inc.

By: 

Prabhakar Thangarajah
President

Dated: 07/20/2020

Immigrant and Employee Rights Section

By: 

Alberto Ruisanchez
Deputy Special Counsel

Dated: 7/27/20

Jodi Danis
Special Litigation Counsel

Craig G. Fansler
Trial Attorney