

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into by and between Fleetlogix, 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 April 30, 2019, IER notified Respondent that it had initiated an independent investigation of Respondent’s employment eligibility verification practices, DJ # 197-12-272 (the “Investigation”) to determine whether Respondent engaged in unfair employment practices in violation of 8 U.S.C. § 1324b(a)(6);

WHEREAS, IER concluded, based upon its Investigation, that there is reasonable cause to believe that from at least November 1, 2017 until at least August 1, 2019, Respondent’s Arizona locations engaged in 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);

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 three years following the Effective Date.
2. Respondent shall pay civil penalties to the United States Treasury in the total amount of six hundred and twenty seven thousand dollars (\$627,000). No later than ten 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 FedWire payment instructions. Respondent shall pay the monies required under this paragraph via the FedWire electronic fund transfer system as follows: Respondent shall pay the first installment of \$62,700 within 10 days of receiving the Fedwire electronic fund transfer system instructions; a second installment of \$94,050 within nine months of the Effective Date; a third installment of \$125,400 within 18 months of the Effective Date; a fourth installment of \$156,750 within 27 months of the Effective Date; and a fifth installment of \$188,100 within 36 months of the Effective Date. On the day each payment is made, Respondent shall confirm via email to Liza Zamd at Liza.Zamd@usdoj.gov (or any other individual IER designates) 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), 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 exercising any right or privilege secured by 8 U.S.C. § 1324b.
5. Respondent shall set aside a back-pay fund of \$100,000 to compensate any qualified individual who suffered economic injury in the form of loss of pay from a refusal to hire, delayed hire, suspension, termination, or other periods of lost work as a result of Respondent’s alleged employment eligibility verification practices in Arizona from April 30, 2017 through the Effective Date, as described below:
 - A. A “Claimant” as described in this Agreement, shall be any individual who, between April 30, 2017 through the Effective Date: (i) was a protected individual under 8 U.S.C. § 1324b(a)(3), including a refugee, asylee, or a lawful permanent resident for no longer than five years and six months or who applied to naturalize within that period, (ii) had sufficient documentation to satisfy 8 U.S.C. § 1324a(b) requirements, and (iii) lost work (e.g., faced a hiring delay, was suspended, was fired, or not hired) because the individual did not produce DHS documentation.
 - B. Within 30 days of the Effective Date, Respondent will provide IER with an Excel Spreadsheet (Spreadsheet 1) with all the available payroll data it possess electronically (including employee ID, full name, full time/part time, job title, job code, date of birth, hire date, rehire date, most recent hire date type, email address, mailing/home address, phone number(s), exempt/non-exempt status, pay frequency, pay rate, annual salary, supervisor, status, termination date, status reason, and last day worked), for each individual it hired between June 1, 2017, and the Effective Date.
 - C. To help identify possible back pay recipients, within 60 days of the Effective Date, Respondent will provide IER with information relating to all criminal background and Department of Motor Vehicle checks that did not disqualify an individual from employment. Respondent shall produce the information from all such checks that it ran on any individual in Arizona between April 30, 2017 and the Effective Date.
 - D. No later than 120 days from the Effective Date, IER will send Respondent an Excel spreadsheet (“Spreadsheet 2”) with the name, email address, mailing/home address, and employee ID (if

applicable) of each person to whom Respondent shall mail the Back-Pay Letter (Attachment A), Back Pay Claim Form (Attachment B), and Back Pay Frequently Asked Questions (Attachment C). These individuals, and any other subsequently identified recipients of these documents, are “Potential Claimants.”

- E. No later than 135 days from the Effective Date, Respondent will use the address(es) in Spreadsheet 2 to send by first class mail and email (where Respondent possess it) Attachments A, B, and C to Potential Claimants unless IER has requested in writing that Respondent use a different address.
- F. IER will consider and evaluate all Back-Pay Claim forms with a postmark or email transmission date no later than 230 days from the Effective Date.
- G. Within 290 days from the Effective Date, IER will send Respondent a list of the individuals who IER believes are eligible to receive back pay pursuant to Paragraph 5(A), any completed Back Pay Claim Forms, and an initial calculation of the amount to be paid (“Preliminary List of Claimants”).
- H. Within 310 days from the Effective Date, Respondent will send IER a written explanation of any challenges or disputes, along with any supportive documentation, that Respondent has regarding the inclusion of an individual on the Preliminary List of Claimants or IER’s initial back pay calculations.
- I. IER shall review the information provided in Paragraph 5(H), and no later than 340 days from the Effective Date, IER shall send Respondent a Final List of Claimants. The Final List of Claimants will identify the individuals who are entitled to relief under this Paragraph. The Final List of Claimants will include each individual’s name, the amount of lost wages due plus interest, and IER’s response to any of Respondent’s challenges. If the total amount of back pay to be awarded based on the Final List of Claimants exceeds \$100,000, IER will prorate each Claimant’s back pay award and include the prorated amount for each individual so as not to exceed a total of \$100,000.
- J. Within 370 days of the Effective Date, Respondent will send by first class mail, and email when possible, a Letter and Release of Claims (Attachment D) to each Claimant included on the Final List of Claimants. The release of claims is limited to the violations of the Act for which the payment of back pay relates. Respondent will cc Liza Zamd at Liza.Zamd@usdoj.gov (or any other individual IER designates) on all email correspondence.

- K. Within 475 days of the Effective Date, Respondent will pay the monies IER identified in the Final List of Claimants to each Claimant in the amount prescribed by IER. Respondent shall pay the individuals by direct deposit (if applicable) or send by first class mail the checks to each Claimant at the Claimant's preferred address. Respondent may withhold applicable taxes based on the tax rates of the current calendar year. Respondent shall follow any applicable instructions for local, state and federal withholdings.
- L. For good cause (as determined by IER), Potential Claimants or those appearing on the Preliminary List of Claimants may submit information or documentation beyond the dates set forth in the Agreement up until 475 days of the Effective Date without affecting their right to relief under this Agreement. Within 30 days of IER receiving information and making a good cause determination pursuant to this paragraph, it will notify Respondent. Respondent will then have 20 days to send IER a written explanation of any challenges or disputes, along with any supportive documentation. IER will notify Respondent within 30 days of its final determination, including the amount of back pay Respondent owes (if any). If IER designates an individual as a Final Claimant, Respondent has 30 days to pay the individual after Respondent's receipt of the individual's signed Release of Claims.
- M. If, during the implementation of the Back Pay Claims process, either Party receives updated or revised contact information for a Potential Claimant or a Claimant, the receiving Party will promptly provide that information to the other Party, if applicable. Any communication that was undeliverable due to outdated or incorrect contact information will be resent to any available updated address by the Party originally responsible for transmitting that communication under this Agreement. IER may, at its discretion, send one or more Back Pay Post Cards (Attachment E) to Potential Claimants. Except as provided in this Agreement, Respondent will not communicate with any Potential Claimant or Claimant regarding this Paragraph without IER's advance approval.
- N. The Parties shall keep track of any communications that are returned to any Party as undeliverable, and, notify the other Party within 14 days of receiving notice of the undeliverable correspondence.
- O. When Respondent is required to give or produce something to IER pursuant to this Agreement, it shall send it by email to Liza.Zamd@usdoj.gov (and/or any other individual IER designates in writing).

- P. When exchanging any personal identifiable information (“PII”), the Parties will secure such information with encryption or password protection. PII includes but is not limited to: Social Security numbers, alien numbers, dates of birth, home addresses, personal phone numbers, and personal email addresses.

Any unclaimed back pay will revert to Respondent within 10 days of the end of the Back Pay Claims process.

- 6. Within 14 days of the Effective Date, Respondent shall have posted in all of its locations nation-wide, 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 and Spanish.
- 7. 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, firing, and employment eligibility verification or re-verification processes;
 - (b) Include citizenship, immigration status, and national origin as prohibited bases of discrimination, and ensure inclusion of these bases in any Equal Employment Opportunity statements that Respondent includes in printed or electronic materials available to the public or employees;
 - (c) Refer individuals who complain, formally or informally, of discrimination in the hiring, firing or Form I-9/E-Verify employment eligibility verification or re-verification processes immediately to IER by directing the affected individual to the IER Poster, IER’s worker hotline (800-255-7688), and IER’s website, <https://www.justice.gov/ier>, and advise the affected individual of his or her right to file a charge of discrimination with IER; 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 other protected activity.
- 8. During the term of this Agreement, Respondent shall ensure that all individuals involved in Respondent’s EEV processes 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.

9. Within 180 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) During the term of the Agreement, all new Human Resources Personnel who assumed their duties after the initial training described in this paragraph shall participate in an IER provided or approved webinar within 60 days of hire or promotion. Respondent shall compile and send attendance records for these individuals pursuant to Paragraph 10(c).
10. Within 180 days of the Effective Date, Respondent shall conduct an assessment training of all of its Human Resources Personnel regarding 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.
- 11. 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.
- 12. 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.
- 13. 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

- 14. 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.
- 15. The United States District Court for the Southern District of California 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.

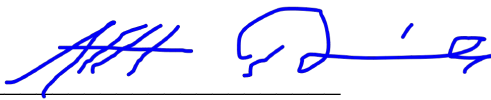
16. Should any court declare or determine that any provision(s) of this Agreement is/are illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected and said illegal or invalid part(s), term(s), or provision(s) shall be deemed not to be part of this Agreement. The 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.
17. 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.
18. The Parties shall each bear their own costs, attorneys' fees and other expenses incurred in this action.
19. 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.

Fleetlogix, Inc.

By: 
[Name] Adam G. Kimball
[Title] President/CEO

Dated: 10/14/2020

Immigrant and Employee Rights Section

By: 
Alberto Ruisanchez
Deputy Special Counsel

Dated: 11/10/20

C. Sebastian Aloit
Special Litigation Counsel

Liza Zamd
Senior Trial Attorney