

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into by and between Walter J. Willoughby, Jr., M.D., Ltd. (“Willoughby, Ltd.”) and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“IER”) as to Part I, and between Willoughby, Ltd., IER, and Charging Party [REDACTED] (“Charging Party”) (together, “the Parties”) as to Part II, and between Willoughby Ltd. and Charging Party as to Part III.

BACKGROUND

WHEREAS, on August 24, 2020, IER accepted as complete a charge (the “IER Charge”) filed by [REDACTED] (“Charging Party”), DJ# 197-46-134, alleging violations of the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b;

WHEREAS, on September 2, 2020, IER notified Willoughby, Ltd. that it had initiated an investigation (“Investigation”) based on Charging Party’s allegations to determine whether Willoughby, Ltd. had engaged in any conduct in violation of 8 U.S.C. §§ 1324b(a)(1) and/or (a)(5);

WHEREAS, IER concluded based upon the Investigation that there is reasonable cause to believe that Willoughby, Ltd. violated 8 U.S.C. § 1324b(a)(1)(A) by terminating Charging Party’s employment based on her national origin on March 16, 2020, in violation of 8 U.S.C. § 1324b(a)(1)(A);

WHEREAS, Willoughby, Ltd. contends that its actions were lawful, legitimate business actions and denies that it engaged in any form of discrimination;

WHEREAS, this Agreement does not constitute and shall not be construed as an admission of liability by Willoughby, Ltd. for any act in violation of 8 U.S.C. § 1324b;

WHEREAS, the Parties wish to resolve IER’s reasonable cause finding without further delay or expense, and to avoid the uncertainty and costs of litigation, and hereby acknowledge that they are voluntarily and freely entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained below, and to fully and finally resolve the IER Investigation as of the date of the latest signature below, the Parties agree as follows:

I. TERMS OF SETTLEMENT BETWEEN THE UNITED STATES AND WILLOUGHBY, LTD.

1. This Agreement becomes effective as of the date of the latest signature below, which date is referenced hereafter as the “Effective Date,” and shall have a term of two years beginning from the Effective Date.

2. Willoughby, Ltd. shall pay a civil penalty to the United States Treasury in the amount of \$2,500.
3. Willoughby, Ltd. shall provide IER with the name, title, email address, and telephone number of the individual responsible for effectuating payment of the civil penalty no later than seven calendar days from the Effective Date. Willoughby, Ltd. shall pay the monies in paragraph 2 via the FedWire electronic fund transfer system within 14 calendar days of receiving fund transfer instructions from IER. Willoughby, Ltd. shall send confirmation of the payment to Lisa Sandoval at Lisa.Sandoval@usdoj.gov and Ramya Sekaran at Ramya.Sekaran2@usdoj.gov (or any other individual IER designates in writing) on the day the payment is made. The email confirming payment shall have Willoughby, Ltd.'s name and the investigation number, DJ# 197-46-134, in the subject line.
4. Respondent shall pay Charging Party \$40,500, less any tax withholdings required by law, representing a compromise as to alleged lost wages due as a result of the alleged discrimination. Respondent shall pay these monies in three equal installments, the first of which is due 30 calendar days from the Effective Date, the second of which is due within four months from the Effective Date, and the third of which is due six months from the Effective Date. Respondent shall, for each installment, effectuate payment by direct deposit into Charging Party's bank account using the account information provided by IER. Within 5 days of each payment, Respondent shall notify IER at Lisa.Sandoval@usdoj.gov and Ramya.Sekaran2@usdoj.gov that payment was made and attach a copy or screenshot of the confirmation of deposit.
5. Regarding the payments in paragraph 4, Respondent may withhold applicable taxes based on the rates of the current year and shall provide Charging Party with any applicable income tax reporting form. Respondent is separately responsible for paying any employer-side taxes or Social Security contributions or other payments due under applicable federal or state law based on the back pay payment.
6. Within 14 calendar days of the Effective Date, Respondent shall remove any reference in Charging Party's personnel records to a termination or other involuntary departure from her employment with Respondent, and replace such references with statements indicating Charging Party's "voluntary resignation." When communicating with any of Charging Party's prospective employers, Respondent shall refrain from claiming that Charging Party was terminated or involuntarily departed, and, if asked about her separation, state only that Charging Party voluntarily resigned. Within 14 calendar days of the Effective Date, Respondent shall also notify all of its current employees who previously worked with Charging Party that they are not to discuss or disclose the circumstances of Charging Party's separation from Respondent's employment with any prior or current patient of Respondent's practice, other than to state she voluntarily resigned, and that any failure to comply with this instruction shall meet with an unpaid suspension of at least one day, or an eight-hour reduction in annual leave for any exempt employees.

7. Within 21 calendar days of the Effective Date, Respondent will provide Charging Party with a positive reference letter, included as Attachment 1. If any corporate owner, employee, or contractor of Respondent's communicates with Charging Party's prospective employers, they will not contradict the language in Attachment 1.
8. Willoughby, Ltd. shall not retaliate against Charging Party or any other individuals who participated in the IER Investigation. Willoughby, Ltd. shall not disclose any information or documentation related to the IER Charge or IER Investigation to any employer or prospective employer of Charging Party, or to any employer or prospective employer of any individuals who participated in the IER Investigation.
9. Within 60 calendar days of the Effective Date, Willoughby, Ltd. shall create (or revise) and implement employment policies, to the extent it has not already done so, that:
 - a. Prohibit discrimination on the basis of citizenship status, immigration status, and national origin in the processes of hiring, firing, and recruiting or referral for a fee, in accordance with 8 U.S.C. § 1324b(a)(1);
 - b. Include citizenship status and immigration status as prohibited bases of discrimination—unless required to comply with a law, regulation, executive order, government contract, or Attorney General directive pursuant to 8 U.S.C. § 1324b(a)—as well as national origin. Such prohibitions shall also be included in any Equal Employment Opportunity statements Willoughby, Ltd. provides in printed or electronic materials available to the public or employees;
 - c. Refer applicants and employees who make a complaint of discrimination based on national origin, citizenship or immigration status in connection with hiring, firing, recruiting or referring for a fee, or Form I-9 employment eligibility verification and/or reverification promptly to IER by directing the affected individual to the IER Poster, IER's worker hotline (800-255-7688), and IER's website (www.justice.gov/ier), and advise the affected individual of his or her right to file a charge of discrimination with IER; and
 - d. Provide that Willoughby, Ltd. shall not intimidate or take any retaliatory action against any individual for opposing any employment practice made unlawful by 8 U.S.C. § 1324b or which the individual reasonably believes to be unlawful under 8 U.S.C. § 1324b, for filing a charge, or for participating in any investigation or action under 8 U.S.C. § 1324b.
10. Respondent shall, within 14 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 shall keep them posted for at least the term of this Agreement.

11. Within 90 calendar days of the Effective Date, Willoughby, Ltd. shall ensure that all employees participate in training on their rights and obligations under 8 U.S.C. § 1324b. In addition:
 - a. The training will consist of participating in a live, IER-provided free webinar presentation on one or more mutually agreed upon dates;
 - b. All employees will be paid their normal rate of pay, and the training will occur during their normally scheduled workdays and work hours. Willoughby, Ltd. shall be responsible for all payroll costs and employee wages associated with these training sessions;
 - c. During the term of the Agreement, all employees with any role in recruitment, hiring, or employment eligibility verification who assume or resume their duties after the initial training period described in this paragraph has been conducted, shall participate in an online IER Employer/HR webinar within 60 calendar days of assuming or resuming their duties; and
 - d. Willoughby, Ltd. shall compile attendance records listing the individuals who attend the training(s) described in this paragraph, including their full name, job title, signature, and the date(s) of the training, and shall send the records via email to Lisa.Sandoval@usdoj.gov and Ramya.Sekaran2@usdoj.gov (or any other individual IER designates in writing) within 14 calendar days of each training session. The emails transmitting attendance records shall have Willoughby, Ltd.'s name and the reference number DJ# 197-46-134 in the subject line.
12. During the term of this Agreement, IER reserves the right to make reasonable inquiries of Willoughby, Ltd. to determine compliance with this Agreement. As part of such review, IER may require written reports concerning compliance, examine witnesses, and examine and copy Willoughby, Ltd.'s documents that IER reasonably determines are relevant to compliance.
13. Nothing in this Agreement limits IER's right to inspect Willoughby, Ltd.'s Forms I-9 and attachments within three business days pursuant to 8 C.F.R. § 274a.2(b)(2)(ii) and 28 C.F.R. § 44.302(b).
14. This Agreement does not affect the right of any individual to file an IER charge alleging an unfair immigration-related employment practice against Willoughby, Ltd., IER's authority to investigate such charge or file a complaint on behalf of any such individual, or IER's authority to conduct an independent investigation of Willoughby, Ltd.'s employment practices occurring after the Effective Date or outside the scope of the Investigation.
15. If IER has reason to believe that Willoughby, Ltd. has violated or is violating any provision of this Agreement, IER may exercise its discretion to notify Willoughby, Ltd. in writing of the purported violation rather than initiate a new investigation or seek immediate judicial enforcement of the Agreement. Willoughby, Ltd. will then

be given 30 calendar days from the date IER notifies it in which to cure the violation(s) to IER's satisfaction before IER deems Willoughby, Ltd. to be in violation of this Agreement and proceeds to take enforcement actions.

16. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between IER and Willoughby, Ltd. relating to the IER Investigation through the Effective Date. The provisions of paragraph 2 notwithstanding, IER shall not seek from Respondent any additional civil penalty for the violations of 8 U.S.C. § 1324b, or any other allegations encompassed in the IER Investigation, designated as DJ# 197-46-134, through the Effective Date.

II. ADDITIONAL TERMS OF SETTLEMENT BETWEEN WILLOUGHBY, LTD., THE UNITED STATES, AND CHARGING PARTY

17. This Agreement sets forth the entire agreement between Willoughby, Ltd. and IER as to Part I, and Willoughby, Ltd., IER, and Charging Party as to Part II, and Willoughby Ltd. and Charging Party as to Part III, and fully supersedes any and all prior agreements or understandings between any or all of the parties pertaining to the subject matter herein. This Agreement is governed by the laws of the United States. Parts I and II of this Agreement shall be deemed to have been drafted by both Willoughby, Ltd. and IER and shall not be construed against either of those parties in the event of a subsequent dispute concerning the terms of the Agreement. The Parties agree that the paragraphs set forth in Parts I and III of this Agreement are material terms of the Agreement between the parties bound to those parts, without waiver of any party's right to argue that other terms in the Agreement are material.
18. The Parties agree that, as of the Effective Date of this Agreement, litigation concerning the violation of 8 U.S.C. § 1324b that IER has reasonable cause to believe that Willoughby, Ltd. committed is not reasonably foreseeable. To the extent that any party previously implemented a litigation hold to preserve documents or electronically stored information, the party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any party of any other obligations imposed by this Agreement.
19. 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, 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.
20. The Parties shall each bear their own costs, attorneys' fees, and other expenses incurred in this action.
21. The United States District Court for the District of Nevada 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.

22. 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 agree to be bound by facsimile or electronic signatures.


III. TERMS OF AGREEMENT BETWEEN CHARGING PARTY AND RESPONDENT

23. Release of Claims. In consideration for the Payment to Charging Party in the amount of \$2,000 (which shall be paid within 14 days of the Effective Date and for which Charging Party will be issued an IRS Form 1099), the adequacy of which is hereby expressly acknowledged, Charging Party releases her claims against Willoughby, Ltd. for violations arising under 8 U.S.C. § 1324b that she alleged or could have alleged in the charge she filed with IER, DJ# 197-46-134. Furthermore, she waives her right to recover for any claims under state, federal, or local law, including but not limited to statutory, tort, or contract claims, related to or arising from her employment including the termination of her employment with Willoughby, Ltd., including but not limited to claims she raised or could have raised for national origin discrimination or retaliation which arose prior to the date of this release.

RELEASE AND WAIVER OF CLAIMS. THE CHARGING PARTY IS ADVISED TO CONSULT WITH LEGAL COUNSEL PRIOR TO SIGNING.

Walter J. Willoughby, Jr., M.D., Ltd.

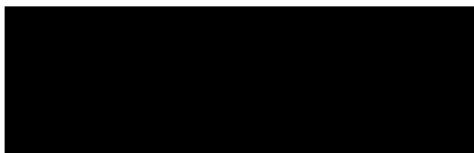
By:


_____ for
Walter J. Willoug by, Jr.

Dated: December 23, 2022

Charging Party

By:



Dated: 10/20/20



Immigrant and Employee Rights Section

By:



Alberto Ruisanchez
Deputy Special Counsel

Jodi Danis
Special Litigation Counsel

Lisa Sandoval
Ramya Sekaran
Trial Attorneys

Dated: 12-23-2022