

May 11, 2010

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE is made and entered into by and among ValleyCrest Companies (Respondent), the Mid-Atlantic Regional Organizing Coalition, Hugo Carballo (collectively, the Mid-Atlantic Regional Organizing Coalition and Mr. Carballo are referred to herein as the Charging Party), and the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices (Office of Special Counsel).

WHEREAS, on March 20, 2009 and April 16, 2009 the Office of Special Counsel received charges filed by the Charging Party against Respondent (Nos. 197-79-418 and 197-79-421) alleging discrimination against domestic workers in favor of foreign workers who possess an H-2B visa authorizing them to undertake temporary seasonal work, in violation of the unfair immigration-related employment practices provisions of 8 U.S.C. 1324b (the "Act"), and whereas on November 16, 2009, the Charging Party filed a Complaint with the Office of the Chief Administrative Hearing Officer of the United States Department of Justice against Respondent (No. 10B00023) based on those charges.

WHEREAS, Respondent and the Charging Party acknowledge that they are voluntarily entering into this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, it is agreed as follows:

1. Respondent agrees to pay \$11,173 in back pay, minus required tax deductions, to Mr. Gregory Thomas, 12046 Tollhouse Road, Spotsylvania, Virginia 22553.

The Charging Party and the Office of Special Counsel agree that Respondent will not be required to pay any Civil Penalty or make any other monetary payment in connection with the final resolution of this matter.

2. The payment to Mr. Thomas discussed in the preceding paragraph shall be paid directly to him, by certified or registered mail, return receipt requested, within ten days from the date Respondent receives a fully signed copy of this Settlement Agreement and General Release ("Agreement") and from the date Respondent receives the Social Security Number for Mr. Thomas as required for income tax purposes. Respondent will provide the Office of Special Counsel with a copy of the cover letter and check, including all attachments, within the ten-day period.

3. Respondent agrees that it shall not discriminate against domestic workers and in preference for foreign workers who possess an H-2B visa in temporary seasonal employment in violation of 8 U.S.C. § 1324b.

4. Respondent agrees that it will modify its hiring policies and procedures and extend the application acceptance period so that it will accept applications from domestic workers for temporary seasonal work and hire qualified applicants up until two weeks before foreign workers employed pursuant to the H-2B visa program begin work. The Company will continue to post seasonal job openings with local and state unemployment agencies; with local community-based organizations serving women, veterans, and disabled individuals; and on bulletin boards of the local Branches. These job postings will continue until either (a) all job openings for seasonal positions are filled with qualified domestic applicants, or (b) the extended application acceptance period has expired. To the extent a qualified applicant can be found to work in a seasonal employment position, that qualified applicant will be hired in lieu of an H-2B worker, even if there is a visa available for an H-2B visa worker.

5. Respondent agrees that it will clarify its hiring policies and procedures with respect to temporary seasonal workers, including foreign workers employed pursuant to the H-2B visa program, in the following respects:

- a. When a Branch is taking applications, each candidate shall be sent to the Office Manager or his/her assistant and shall not receive applications or any hiring information from anyone else who is not trained in hiring policies and procedures;
- b. Respondent will remind staff in all Branches that work verification checks and the I-9 form process may be initiated only after the candidate has received a job offer. Respondent will instruct staff to decline politely to review or accept any work authorization documentation that is offered before the candidate has received a job offer. Respondent also will remind staff that drug testing can be conducted only after the candidate has received a job offer;
- c. For each Branch for which permission to hire H-2B workers is sought, Respondent will make a telephone call and send one certified letter to all qualified domestic applicants for seasonal work who are invited to interview, provided that the applicant for seasonal work is not interviewed "on the spot". Respondent also will make a telephone call and send one certified letter to offer rescheduling to all qualified applicants for seasonal work who apply for a position with each such Branch and who do not appear for scheduled interviews;
- d. For each such Branch, Respondent will make two telephone calls and send two certified letters to each qualified domestic applicant for seasonal work who receives an offer of employment: one immediately after Respondent decides to hire the applicant and one a week before work is scheduled to begin;

- e. Respondent will implement a software program of its selection to assure compliance with applicable federal and state I-9 form regulations, view compliance report for I-9 forms, locate missing I-9s, and reduce human errors such as incomplete forms, illegible hand writing and incorrect answers;
- f. Respondent will conduct I-9 form training in the Second and Third Quarters of 2010 for all its employees involved in the I-9 process to reinforce policies, procedures, document retention requirements, and training to use the new software program;
- g. Respondent will conduct training in the Second and Third Quarters of 2010 for all Office Managers and Branch Managers on its human resources program (known as "VC HR 101"), EEOC compliance, and hiring procedures. Thereafter, this program will be conducted as a yearly-training component for these managers. As continuing education, all Branch Managers also will be given a mandatory human resources webinar.
- h. New hires will continue to receive training for the VC HR 101 program and EEOC compliance;
- i. Respondent will conduct a yearly audit of each Branch on human resources issues (VC HR 101, EEOC and hiring procedures) with re-training and re-auditing during the year for any Branch that scores below "excellent" on the audit; and
- j. Respondent will implement within 60 days of signing this settlement agreement a document retention policy that addresses keeping all hiring documents on file as required by law, depending on the type of document and the legal requirement (including, but not limited to, I-9 forms, applicant flow logs, and applications). Unless otherwise provided by law, I-9 forms will be retained for three years after the date of hire or one year after the date of termination, whichever is later, and applications will be retained for two years from the date of rejection or other personnel action.

6. With respect to its branches in the greater Washington, D.C. area, Respondent further agrees as follows:

- a. All candidates for seasonal work through one of Respondent's branches in the greater Washington area will be referred to the Office Manager or his/her assistant for that branch, who will be properly trained in all Company hiring policies and procedures. No other employee of Respondent will be authorized to provide applications or hiring information to interested candidates.
- b. Respondent will take applications and hire qualified applicants for seasonal work through one of its branches in the greater Washington area up until two weeks before foreign workers employed pursuant to the H-2B visa program are to begin work.

- c. Qualified applicants for seasonal work through one of Respondent's branches in the greater Washington area will either be interviewed at the time of application or will be invited by a telephone call and a certified letter to interview for a position.
- d. Qualified applicants for seasonal work through one of Respondent's branches in the greater Washington area who are offered employment will receive a telephone call and a certified letter at the time of the offer of employment and a follow-up call and certified letter one week before seasonal laborers are to begin work.
- e. Each year, as part of the hiring process for seasonal work through its branches in the greater Washington area, Respondent will (by a telephone call and a certified letter) invite all former seasonal employees who were laid off by a branch in the previous year due to lack of work to apply for reemployment with that branch.
- f. For each year in which Respondent seeks permission to hire H-2B workers for seasonal work positions in one of its branches in the greater D.C. area, it will provide advance written notice of the available seasonal positions to the Laborers' Hiring Hall by certified mail to Mid-Atlantic Organizing Coalition, LiUNA!, 12355 Sunrise Valley Drive, Suite 550, Reston, Virginia, 20191 at least fourteen days prior to the start of the official recruitment period. This written notice will advise members of their right to apply for any open seasonal positions and will provide: (i) a copy of the position vacancy announcement(s); (ii) the dates and times during which the applicable branch(es) will be accepting applications for seasonal work; (iii) the location(s) at which applications will be made available and will be accepted; and (iv) contact information for the Office Manager(s) and assistant(s) who will be accepting applications at the applicable branch(es). At the same time the written notice is sent to the Laborers' Hiring Hall, Valley Crest will make one telephone call to the Union at 1-703-860-4194 and will convey orally the information that is set forth in the written notice.

7. Respondent agrees that the Office of Special Counsel may review its compliance with this Agreement for a period of one year from execution of this Agreement. As a part of such review, the Office of Special Counsel may require written reports concerning compliance, inspect Respondent's premises, examine witnesses, and examine and copy Respondent's documents at the expense of the Office of Special Counsel. Such requests must be fully satisfied by Respondent within ten business days of receipt of a written request from the Office of Special Counsel to Respondent's counsel.

8. The Charging Party agrees to withdraw with prejudice the charges filed against Respondent on March 20, 2009 and April 16, 2009 with the Office of Special Counsel. The Charging Party's signature on this Agreement will constitute a request for such withdrawal. The Office of Special Counsel agrees to accept the withdrawal of the charges upon the satisfaction of paragraphs 1-2 of this Agreement related to individual relief and will dismiss the charges in accordance therewith.

9. The Charging Party hereby waives, releases and covenants to dismiss with prejudice the Complaint, as amended, it first filed against Respondent on November 16, 2009 with the Office of the Chief Administrative Hearing Officer, Executive Office for

Immigration Review, U.S. Department of Justice, based on the charges it filed on March 20, 2009 and April 16, 2009 with the Office of Special Counsel.

10. This Agreement may be enforced in the United States District Court for the Eastern District of Virginia.

11. This Agreement resolves any and all differences between the parties relating to the charges and the Complaint filed by the Charging Party through the date this Agreement is signed by all parties.

12. 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 thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. Respondent, the Office of Special Counsel and the Charging Party agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.

13. This Agreement is neither an admission by Respondent of any act in violation of 8 U.S.C. § 1324b nor an admission by the United States of the merits of any of Respondent's defenses.

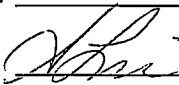
14. The Special Counsel, Respondent, and the Charging Party agree to bear their own costs, attorneys fees and other expenses incurred in this action.

15. This Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter herein.

16. 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.

ValleyCrest Companies (Respondent)

Dated: 5/11/2010

By: 
Ashley Wilson
Vice President & Senior Counsel


**Mid-Atlantic Regional Organizing Coalition,
LiUNA! and Hugo Carballo** (Charging Parties)

Dated: _____

By: _____
Justin Meighan
Administrator

**Office of Special Counsel for Immigration Related
Unfair Employment Practices**

Dated: 5.12.2010

By: 
Katherine A. Baldwin
Deputy Special Counsel

16. 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.

ValleyCrest Companies (Respondent)

Dated: _____

By: _____
Ashley Wilson
Vice President & Senior Counsel

**Mid-Atlantic Regional Organizing Coalition,
LiUNA! and Hugo Carballo (Charging Parties)**

Dated: May 13, 2010

By: 
Justin Meighan
Administrator

**Office of Special Counsel for Immigration Related
Unfair Employment Practices**

Dated: _____

By: _____
Katherine A. Baldwin
Deputy Special Counsel