

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (the "Agreement") is made and entered into by and among Hines Nurseries, Inc., a California corporation ("Respondent"), [REDACTED] ("Charging Party"), the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices ("Office of Special Counsel" or "OSC") and Hines Nurseries LLC, a Delaware limited liability company ("New Hines").

WHEREAS, on December 18, 2006, the Office of Special Counsel received a charge filed by the Charging Party against Respondent alleging citizenship status discrimination in violation of the unfair immigration-related employment practices provisions of 8 U.S.C. § 1324b (the "Charge") and the Charging Party filed a lawsuit against Respondent in Orange County Superior Court Case No. 07CC08263 (the "Lawsuit");

WHEREAS, the Office of Special Counsel determined during the course of its investigation of the charge that there is reasonable cause to believe that the Charge is true and filed a complaint related to the Charge (the "Complaint");

WHEREAS, Respondent and its parent company Hines Horticulture, Inc., a Delaware corporation ("Horticulture") filed a petition in the United States Bankruptcy Court for the District of Delaware on August 20, 2008;

WHEREAS, certain of the assets of Respondent and Horticulture were purchased effective January 9, 2009 by New Hines (a separate limited liability company unaffiliated with Respondent or Horticulture) through a bankruptcy sales process free and clear of all claims, liens and encumbrances, other than certain permitted encumbrances pursuant to an order of the United States Bankruptcy Court of the District of Delaware (the "Sale Order") and the Amended and Restated Asset Purchase Agreement dated as of December 15, 2008 by and among Respondent, Horticulture and New Hines (as amended, the "Asset Purchase Agreement");

WHEREAS, New Hines did not assume any claims or liabilities with respect to the Charge or the Lawsuit or any other liabilities with respect to the Charging Party's employment by Respondent under the terms of the Sale Order and the Asset Purchase Agreement and thus acquired the assets of Respondent and Horticulture free of any claims or liabilities;

WHEREAS, despite the terms of the Sale Order and Asset Purchase Agreement and the fact that New Hines has assumed no liability to the Charging Party, New Hines wishes to voluntarily cooperate with the Office of Special Counsel in the settlement of Charge and the Lawsuit; and

WHEREAS, the Office of Special Counsel, the Charging Party, Respondent and New Hines desire to settle fully and finally all claims arising from the Charge, the Lawsuit, any conduct of Respondent and Statewide Labor Camp or California Labor Camp as it relates to providing contract or temporary employees to Respondent or New Hines and any claims against New Hines relating to the employment of the Charging Party by Respondent up through the date this Agreement is executed.

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

1. To fully and finally resolve the Charge, the Complaint, and the Lawsuit and all disputes between the Charging Party, OSC and New Hines, whether such claims are based on the conduct of Old Hines or New Hines, New Hines agrees to pay the Charging Party \$10,000 (the "Cash Payment") subject to the execution of this Agreement by the Charging Party. The Cash Payment shall be made to the Charging Party by certified mail to [REDACTED] Orange, CA 92869, no later than 10 business days after this Agreement is fully executed.
2. To fully and finally resolve the Charge and the Complaint between the Charging Party, OSC and Respondent, Respondent agrees to an allowed unsecured claim in Respondent's bankruptcy case of \$150,000. The allowed unsecured claim in Respondent's bankruptcy case shall be divided among the other injured parties as indicated in the attached chart.
3. Each of Respondent and New Hines agrees that it shall not discriminate on the basis of citizenship status or national origin in violation of 8 U.S.C. § 1324b.
4. Respondent agrees that it will not discriminate or retaliate against the Charging Party, any other similarly situated individuals, or any other person for his or her participation in this matter.
5. The Charging Party hereby waives, releases and covenants not to commence any additional proceedings or continue this proceeding against Respondent, Horticulture or New Hines with the Office of the Chief Administrative Hearing Officer, Executive Office for Immigration Review, U.S. Department of Justice, with respect to the charge she filed against Respondent on December 18, 2006, with the Office of Special Counsel.
6. Except with respect to obligations created by, acknowledged or arising out of this Agreement, the Charging Party, with full understanding of the contents and legal effect of this Agreement and having the right and opportunity to consult with counsel, on behalf of herself and her spouse, heirs, administrators, children, representatives, executors, successors and assigns, and any person or entity who claims by, through or under any of them, hereby irrevocably, fully and unconditionally releases, acquits, covenants not to sue and absolutely and forever discharges New Hines and its members, officers, directors, managers, employees, agents, attorneys, legal successors and assigns, financial advisors, representatives, and each of the partnerships, limited liability companies and other investment vehicles related to such entities and individuals, or any of them, of and from any and all claims, demands, promises, agreements, controversies, charges, complaints, suites, rights, losses, damages, debts, liabilities, accounts reckoning, obligations, costs, expenses (including attorneys' fees and costs actually incurred whether or not litigation be commended), liens, actions and causes of action of every kind and nature whatsoever, whether now known or unknown, contingent or otherwise, asserted or unasserted, suspected or unsuspected, at law or in equity, matured or unmatured, directly or indirectly arising out of or related to the Charge, the Complaint, the Lawsuit or other employment of the Charging Party by the Respondent or by Horticulture (all of which are hereinafter referred to as an included within the "Released Claims") which the Charging Party has, owns or holds, or claims to have, own or hold, or which the Charging

Party at any time prior to the date that this Agreement is fully executed had, owned or held, or claimed to have had, owned or held against New Hines. It is the intention of New Hines and the Charging Party in executing this Agreement to make the release in this paragraph 6 as broad and as general as the law permits and that such release will be effective as a full and final accord and satisfaction and mutual general release of New Hines from all Released Claims.

7. The Charging Party hereby represents and warrants to New Hines that she is the sole and lawful owner of all right, title and interest in and to all of the released Claims and that she has not heretofore voluntarily, by operation of law or otherwise, assigned or transferred or purported to assign or transfer to any person whomsoever any Released Claim or any part or portion thereof of any claim, demand or right against New Hines. The Charging Party shall indemnify and hold harmless the other from and against any claim, demand, promise, agreements, controversy, charge, complaint, suit, right, loss, damage, debt, liability, account, reckoning, obligation, costs, expense (including attorneys' fees and costs actually incurred whether or not litigation be commenced), lien, action or cause of actions based on or in connection with or arising out of any assignment or transfer or purported or claimed assignment or transfer.
8. The Office of Special Counsel, Respondent and New Hines agree, in the event the Charging Party does not sign this Agreement, to be bound by the terms of this Agreement, (except that the Cash Payment will not be paid by New Hines to the Charging Party absent the Charging Party's signature), and further agree that the failure to obtain the Charging Party's signature does not affect the validity of the remainder of this Agreement; in such instance, this Agreement shall become effective with respect to Office of Special Counsel, Respondent and New Hines upon execution by each of the foregoing. If the Charging Party fails to sign this Agreement, the Office of Special Counsel agrees that it will nonetheless dismiss the Complaint against Respondent and it will not pursue any claims against New Hines arising from the Complaint, from the Charge, or from any conduct of Respondent, Statewide Labor Camp or California Labor Camp as it relates to providing contract or temporary employees to Respondent or New Hines up through the date of this Agreement is executed by the Office of Special Counsel, Respondent or New Hines.
9. This Agreement may be enforced in the United States District Court for the Central District of California or any other court of competent jurisdiction.
10. This Agreement does not affect the right of any individual (other than the Charging Party-as set forth above in paragraph 6) to file a charge alleging an unfair immigration-related employment practice against Respondent with the Office of Special Counsel or the right of the Office of Special Counsel to investigate or file a complaint on behalf of any such individual.
11. 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, Hines Nurseries, LLC, 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.

- 12. This Agreement is neither an admission by Respondent or New Hines 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. It contains the complete agreement between the parties on the claims and matters referred to herein and supersedes any prior understanding or written or oral agreements between the parties with respect to the subject matter hereof.
- 13. The Office of Special Counsel, Respondent, New Hines and the Charging Party agree to bear their own costs, attorneys' fees and other expenses incurred in this matter.
- 14. This Agreement may not be amended or modified except in a writing executed by the party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof or thereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing.
- 15. Each of the parties hereto has been represented by or has had an opportunity to consult with legal counsel in connection with the negotiation and execution of this Agreement. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or arbitrator or any governmental authority by reason of such party having drafted or being deemed to have drafted such provision.
- 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. The parties agree to be bound by facsimile signatures.

Dated: 6/4/09

Respondent: [Signature]
Signature

By: MICHAEL KANG
(Print)

C.R.O.
Title

Dated: 5/20/09

[Redacted Signature]
Signature
[Redacted Name]
(Print)
Charging Party

Dated: 5/21/9

Katherine A. Baldwin
Deputy Special Counsel

By: Erik W. Lang
Erik W. Lang
Trial Attorney
Office of Special Counsel for
Immigration-Related Unfair
Employment Practices

Dated: 6-1-2009

Hines Nurseries LLC: Claudia Pieropan
Signature

By: CLAUDIA PIEROPAN
(Print)
S.R.V.P. & C.F.O.
Title

Signature

Injured Parties and Charging Party	Proposed Allocations of Allowed Unsecured Claim	Cash Payment
	\$ 8,394 \$ 12,500 \$ 6,562 \$ 6,933 \$ 18,241 \$ 10,664 \$ 12,864 \$ 33,202 \$ 40,640	plus \$10,000
Totals:	\$150,000	\$10,000
Total Proposed Settlement Amount:	\$160,000	