

DEPARTMENT OF JUSTICE
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CHIEF ADMINISTRATION
HEARING OFFICE

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA,

COMPLAINANT,

v.

JOHN JAY COLLEGE,

RESPONDENT.

8 U.S.C. § 1324b PROCEEDING

OCAHO CASE NO. 10B00074

COMPLAINT

Complainant, the United States of America, alleges as follows:

1. This action is brought on behalf of the Office of Special Counsel for Immigration-Related Unfair Employment Practices ("Office of Special Counsel") to enforce the provisions of the Immigration and Nationalization Act relating to immigration-related unfair employment practices pursuant to 8 U.S.C. § 1324b ("INA").
2. This suit arises out of the discriminatory conduct by John Jay College ("Respondent" or "College") in violation of the anti-discrimination provisions of the INA, 8 U.S. § 1324b(a)(6) with regard to the discriminatory treatment of certain individuals in the employment eligibility verification process.

JURISDICTION

3. Pursuant to 8 U.S.C. § 1324b(c)(2) and (d)(1), the Office of Special Counsel is charged with investigating charges, initiating investigations and prosecuting complaints alleging immigration-related unfair employment practices.

4. [REDACTED] ("Charging Party") is a lawful permanent resident and is protected under 8 U.S.C. § 1324b(a)(3).
5. Respondent a public educational institution located in New York, NY, is a person or entity within the meaning of 8 U.S.C. § 1324b(a)(1), and employed more than three employees on the date of the alleged immigration-related unfair employment practices described below.
6. On June 16, 2008, 136 days after the Charging Party was discriminatory discharged by Respondent, the Office of Special Counsel accepted as complete a charge of citizenship status discrimination from the Charging Party against Respondent.
7. On November 18, 2008, the Charging Party received notice by certified mail from OSC that it was continuing its investigation of the charge and that the Charging Party had the right to file her own complaint before an Administrative Law Judge.
8. On January 5, 2009, the parties reached an agreement that extended the United States' complaint filing period until March 30, 2009.
9. Subsequent complaint filing extension agreements were executed on March 6, 2009, May 18, 2009, August 11, 2009, November 5, 2009, December 30, 2009, March 5, 2010 and March 18, 2010. The most recent agreement extended the United States' complaint filing period until April 15, 2010. A copy of the agreement with the April 15, 2010, complaint filing deadline is appended hereto as Exhibit One.
10. Jurisdiction of the Office of the Chief Administrative Hearing Officer is invoked pursuant to 8 U.S.C. § 1324b(e).

STATEMENT OF FACTS

11. The immigration-related unfair employment practices described below occurred in New York, NY.
12. When the Charging Party started working for Respondent in 2004 she was employed as a part-time computer lab assistant.
13. Between 2004 and 2008 the College suspended the Charging Party several times because it insisted she produce a new, unexpired employment authorization document ("EAD"), her Green Card; I-551, issued by the Department of Homeland Security ("DHS"), for employment eligibility reverification.
14. On or about January 30, 2008, the Charging Party was told by Respondent that her EAD had expired.
15. On or about January 30, 2008, Respondent refused to accept the Charging Party's unrestricted Social Security card and driver's license to reverify her employment eligibility.
16. On or about January 30, 2008, Respondent requested that Charging Party produce either an unexpired EAD or I-551 card.
17. On or about January 30, 2008, Respondent terminated the Charging Party when she failed to produce the documents requested by Respondent.
18. Since at least 2007, if not earlier in time, through sometime in 2009, Respondent's policy and practice has been to require each non-U.S. citizen employee to provide an employment eligibility verification document issued by the former Immigration and Nationalization Service ("INS") or DHS in order to verify or reverify his or her employment eligibility.

19. Since at least 2007, if not earlier in time, Respondent did not require employees who are U.S. citizens to provide documents specified by Respondent in order to verify or reverify their employment eligibility, but, instead, allowed these individuals to provide any document, or combination of documents, permitted on the Form I-9;
20. Since 2007 at least one hundred three non-U.S. citizens were required by Respondent to present their documents issued by INS or DHS in order to order to verify or reverify their employment eligibility.

COUNT I.

DOCUMENT ABUSE AGAINST [REDACTED] AND
OTHER SIMILARLY SITUATED PARTIES

21. Complainant incorporates by reference the allegations set forth in paragraphs 1 through 21 as if fully set forth herein.
22. Respondent knowingly and intentionally committed document abuse discrimination against the Charging Party, and other similarly situated individuals, when it required that they provide an employment eligibility verification document issued by INS or DHS in order to verify or reverify their employment eligibility.
23. Respondent's actions constitute an unfair immigration-related employment practice in violation of 8 U.S.C. § 1324b(a)(6).

COUNT II.

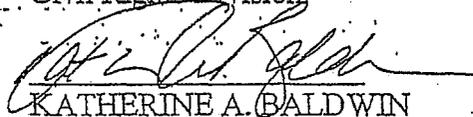
PATTERN OR PRACTICE OF DOCUMENT ABUSE
IN THE HIRING AND EMPLOYMENT ELIGIBILITY
VERIFICATION PROCESS

24. Complainant incorporates by reference the allegations set forth in paragraphs 1 through 24 above as if fully set forth herein.

2. Order Respondent to provide full remedial relief to make the Charging Party, and similarly situated protected individuals, whole for the losses they have suffered as a result of the discrimination alleged in this complaint.
3. Take other appropriate measures to overcome the effects of the discrimination.
4. Order Respondent to pay a civil penalty of \$1,100 for each protected individual who was discriminated against.

The Complainant prays for such additional relief as justice may require.

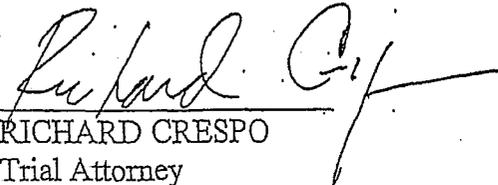
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Dated: April 15, 2010