

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into by and among Forever 21 (“Respondent”), (“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 November 26, 2012, the Office of Special Counsel received a charge filed by Charging Party against Respondent DJ# 197-51-480 (the “OSC Charge”) alleging unfair documentary practices in violation of the unfair immigration-related employment practices provisions of 8 U.S.C. § 1324b (the “Act”).

WHEREAS, the Office of Special Counsel concluded based upon its investigation of the OSC Charge that there is reasonable cause to believe that Respondent committed unfair documentary practices in violation of the Act against Charging Party on October 5, 2012.

WHEREAS, Respondent denies that it has committed an unfair documentary practice or any other violation of the Act.

WHEREAS, the Office of Special Counsel, Respondent, and Charging Party wish to resolve the OSC Charge without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained and to fully and finally resolve all disputes among the parties hereto as of the date of this Agreement, it is agreed as follows:

1. Pursuant to 8 U.S.C. § 1324b(g)(2)(B)(iv)(IV), Respondent agrees to pay the amount of two-hundred-and-eighty dollars (\$280.00) to the United States Treasury.
2. The monies discussed in paragraph 1 shall be paid by cashier’s check payable to the “United States Treasury” and mailed by express delivery service, along with a copy of the fully signed Agreement, to the following address, within ten (10) business days of Respondent’s receipt of a fully signed copy of this Agreement:

Phil Telfeyan
U.S. Department of Justice
Office of Special Counsel for Immigration-Related Unfair Employment Practices
1425 New York Ave, NW, Room 9000
Washington, DC 20005

On the same day a copy of such check and the express delivery service tracking number for this mailing shall be sent to Phil Telfeyan at phil.telfeyan@usdoj.gov.

3. Respondent agrees to pay Charging Party one-thousand-seven-hundred-and-five dollars and fifty cents (\$1,705.50) for back pay. Respondent may withhold applicable taxes based on the tax rates of the current calendar year.
4. The monies discussed in paragraph 3 shall be paid by cashier's check payable to Charging Party and mailed, via express delivery service, to the following address, within five (5) business days from the date Respondent receives a fully signed copy of this Agreement:

On the same day a copy of such check and the express delivery service tracking number for this mailing shall be sent to Phil Telfeyan at phil.telfeyan@usdoj.gov.

5. Respondent agrees to follow the applicable instructions contained in IRS Publication 957 and credit Charging Party's back pay award to the calendar quarters of the years when the back wages would have been earned.
6. Respondent agrees that it will not intimidate, threaten, coerce, or retaliate against Charging Party or any other person for his or her participation in this matter or the exercise of any right or privilege secured by 8 U.S.C. § 1324b.
7. Respondent agrees to post at its facility at Times Square, 1540 Broadway, New York, NY 10036 an English and Spanish version of the Office of Special Counsel "If You Have The Right to Work" poster ("OSC Poster"), an image of which is available at <http://www.justice.gov/crt/about/osc/htm/worker.php#>, in all places where notices to employees and job applicants are normally posted. The Notice will be posted within fourteen (14) days from the effective date of this Agreement and will remain posted for three (3) years thereafter.
8. For eighteen (18) months from the effective date of this Agreement, Respondent agrees to ensure that all individuals who are responsible for formulating, carrying out, and/or conducting training on Respondent's hiring, firing, equal employment, and employment eligibility verification policies at its facility at Times Square, 1540 Broadway, New York, NY 10036, including all managers and employees who have any role making employment eligibility decisions, such as completing the Form I-9 and/or using the E-Verify system ("Human Resources Personnel"), are in possession of the most current version of the Form I-9, USCIS Employment Eligibility Verification Handbook for Employers (M-274) ("Handbook"), available at www.uscis.gov/I-9Central, and the most current USCIS E-Verify Manual (M-775) ("Manual"), available at www.uscis.gov/USCIS/Verification/E-Verify/E-Verify_Native_Documents/manual-employer_comp.pdf. Copies of these documents and future revisions of the Form I-9, Handbook and Manual can be obtained from the United States Citizenship and Immigration Services at www.uscis.gov.

9. Within thirty (30) days of receipt of a fully signed copy of this Agreement, Respondent will review its employment policies as they relate to nondiscrimination on the basis of citizenship status and national origin and shall, as necessary, revise such policies to:
 - (a) Prohibit (1) the requesting of employment eligibility verification documents from any individual prior to making an offer of employment; (2) discrimination on the basis of citizenship status or national origin in the hiring and firing process; and (3) any difference in treatment of individuals, on the basis of citizenship status or national origin, during the Form I-9 employment eligibility verification and re-verification process.
 - (b) Refer applicants and employees at its facility at Times Square, 1540 Broadway, New York, NY 10036, who complain, formally or informally, of citizenship status discrimination in the hiring, firing, or Form I-9 employment eligibility verification and re-verification process promptly to the Office of Special Counsel by directing the affected individual to the OSC Poster and the Office of Special Counsel's worker hotline and website, and advise the affected individual of his or her right to file a charge of discrimination with the Office of Special Counsel.
 - (c) Provide that Respondent shall not take any reprisal action against an employee for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in any lawful manner in any investigation or action under 8 U.S.C. § 1324b.
10. During the one (1) year following the effective date of this Agreement (the "Reporting Period"), Respondent shall provide any substantive changes in employment policies as they relate to nondiscrimination on the basis of citizenship status and national origin to the Office of Special Counsel for review at least thirty (30) days prior to the effective date of such revised policies.
11. Within ninety (90) days of receipt of a fully signed copy of this Agreement, the Office of Special Counsel shall provide all Human Resources Personnel at Respondent's facility at Times Square, 1540 Broadway, New York, NY 10036, with training on their responsibilities to comply with 8 U.S.C. § 1324b, the appropriate use of E-Verify, and the employment eligibility verification and re-verification process as it relates to discrimination on the basis of citizenship status or national origin.
 - (a) The training will consist of viewing a recorded webinar presentation. A recording of the webinar shall be provided by the Office of Special Counsel.
 - (b) All employees will be paid their normal rate of pay, and the training will occur during their normally scheduled workdays and work hours. Respondent shall bear all costs associated with these training sessions.

- (c) For a period of one year from the effective date of this Agreement, all new Human Resources Personnel hired by Respondent at its facility at Times Square, 1540 Broadway, New York, NY 10036, after the training described in this paragraph has been conducted shall view a recorded Office of Special Counsel Employer/HR webinar this training within sixty (60) days of hire.
 - (d) Respondent shall compile attendance records listing the individuals at its facility at Times Square, 1540 Broadway, New York, NY 10036, who comply with the training as described in this paragraph in the form of Attachment A, including their full name, title, signature, and the date of the training. Respondent will send the record from the initial training via email to phil.telfeyan@usdoj.gov within ten (10) days of the training session.
- 12. During the Reporting Period, the Office of Special Counsel reserves the right to make reasonable inquiries to Respondent necessary to determine Respondent's compliance with this Agreement with respect to its facility at Times Square, 1540 Broadway, New York, NY 10036. 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.
- 13. During each of the Reporting Period, the Office of Special Counsel may conduct random audits of Respondent's Forms I-9, including attachments, and require the production of its E-Verify transaction history with respect to its facility at Times Square, 1540 Broadway, New York, NY 10036. Respondent will provide the documents within fifteen (15) business days of its receipt of the Office of Special Counsel's request directed to General Counsel, Forever 21 Legal Department, 3880 N. Mission Road, Dock D-24, #2009, Los Angeles, CA 90031 and to Legal@forever21.com, and shall produce such documents in electronic form unless requested otherwise.
- 14. If the Office of Special Counsel has reason to believe that Respondent is in violation of any provision of this Agreement, the Office of Special Counsel shall promptly notify Respondent of the purported violation by notice to General Counsel, Forever 21 Legal Department, 3880 N. Mission Road, Dock D-24, #2009, Los Angeles, CA 90031 and to Legal@forever21.com. Respondent will then be given a thirty (30) day period from the date it is notified by the Office of Special Counsel in which to cure the violation before Respondent is deemed by the Office of Special Counsel to be in violation of this Agreement.
- 15. Notwithstanding paragraph 14, this Agreement does not affect the right of any individual (other than Charging Party as set forth below in paragraph 18) to file a charge alleging an unfair immigration related employment practice against Respondent with the Office of Special Counsel, the authority of the Office of Special Counsel to investigate or file a complaint on behalf of any such individual, or the authority of the Office of Special Counsel to conduct an independent investigation of Respondent's employment practices.

16. This Agreement resolves any and all differences between the parties relating to the OSC Charge through the date this Agreement is signed by all parties.
17. Charging Party agrees to withdraw with prejudice the OSC Charge. 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 this charge upon the satisfaction of paragraphs 1–5 of this Agreement, and will dismiss the charge in accordance therewith.
18. The Office of Special Counsel and Respondent agree, in the event Charging Party does not sign this Agreement, to be bound by the terms of this Agreement, except for paragraphs 3–5, and that the failure to obtain Charging Party's signature does not affect the validity of this Agreement. If Charging Party fails to sign this Agreement, the Office of Special Counsel agrees that it will nonetheless close the investigation of Charging Party's charge in accordance with the terms of this Agreement, after Respondent complies with paragraphs 1 and 2.
19. This Agreement may be enforced in the United States District Court for the Southern District of New York.
20. The Office of Special Counsel and Respondent agree that, as of the effective date of this Agreement, litigation concerning the violations of 8 U.S.C. § 1324b that the Office of Special Counsel has reasonable cause to believe that Respondent committed is not reasonably foreseeable. To the extent that either 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.
21. 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 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 invalid.
22. The Office of Special Counsel, Respondent, and Charging Party agree to bear their own costs, attorneys' fees and other expenses incurred in this action.
23. 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.

[[signatures on following page]]

Forever 21

By:

Young Kwon
Vice President for Legal Affairs, General Counsel

Charging Party

By:



Office of Special Counsel for Immigration-Related Unfair Employment Practices

By:

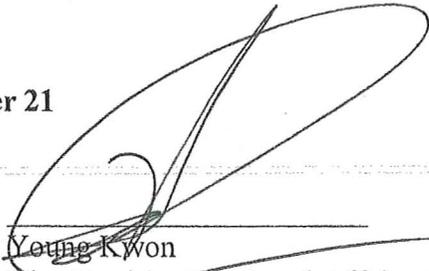
Seema Nanda
Deputy Special Counsel

C. Sebastian Aloit
Special Litigation Counsel

Phil Telfeyan
Trial Attorney

Forever 21

By:



Young Kwon
Vice President for Legal Affairs, General Counsel

Charging Party

By:



Office of Special Counsel for Immigration-Related Unfair Employment Practices

By:



8/14/2013

Seema Nanda
Deputy Special Counsel

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