

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and entered into by and between Isabella Geriatric Center ("Respondent"), 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 January 17, 2014, the Office of Special Counsel notified Respondent in writing that it was opening an independent investigation of Respondent DJ# 197-51-491 (the "OSC Investigation") to determine whether Respondent engaged in unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6) (the "Act").

WHEREAS, the Office of Special Counsel has concluded based upon information developed during the OSC Investigation that there is reasonable cause to believe that Respondent engaged in a pattern or practice of unfair documentary practices against lawful permanent residents from at least January 2011, to December 2013 on the basis of citizenship status in violation of the Act.

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

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

1. Respondent shall pay a civil penalty to the United States Treasury in the amount of fourteen thousand, five hundred dollars (\$14,500.00).
2. The monies referenced in paragraph 1 shall be paid via the FedWire electronic fund transfer system within ten (10) calendar days of Respondent's receipt of a fully signed copy of this Agreement and fund transfer instructions. The Office of Special Counsel will provide Respondent instructions for the FedWire electronic transfer.
3. Respondent shall set aside a back pay fund to compensate individuals who were work-authorized and suffered economic damages, including suspension, termination, or other periods of lost work, as a result of Respondent's employment eligibility practices from January 2011 to December 2013.
 - (a) Within fifteen days (15) calendar days of receipt of a fully signed copy of this Agreement, the Office of Special Counsel will provide Respondent with a list of lawful permanent residents whom the Office of Special Counsel believes were subjected to Respondent's improper reverification practices.

- (b) Within thirty (30) calendar days from Respondent's receipt of the Office of Special Counsel's list as described in paragraph 3(a) above, Respondent will review its payroll and scheduling records for those individuals to determine if any of those individuals lost work as a result of the reverification process. Within the same timeframe, Respondent shall notify the Office of Special Counsel in writing of the names of all individuals whom it believes lost work during the reverification process, and shall also provide copies to the Office of Special Counsel of the payroll and scheduling records for all of the individuals on the Office of Special Counsel's list. Within fifteen (15) calendar days after Respondent's review has concluded, Respondent will send a letter (Attachment "A") to the individuals on the Office of Special Counsel's list, with a copy to the Office of Special Counsel, notifying the individuals of the procedures to follow to seek back pay.
 - (c) The Office of Special Counsel will notify Respondent in writing if any individual who received Attachment "A" meets the criteria for back pay compensation as outlined in Attachment "A." If so, the Office of Special Counsel will notify Respondent in writing of the amount of back pay compensation to which each individual is entitled. The amount of back pay each person is entitled to shall be determined by the Office of Special Counsel in its sole discretion.
 - (d) Within fifteen (15) calendar days of Respondent's receipt of the Office of Special Counsel's written notification(s) as described in paragraph 3(c) above, Respondent will send a check by certified mail, with a copy to the Office of Special Counsel, to each individual identified by the Office of Special Counsel as being entitled to back pay compensation in the amount identified by the Office of Special Counsel.
4. Respondent shall not discriminate on the basis of citizenship status or national origin in violation of 8 U.S.C. § 1324b.
 5. Respondent shall treat all individuals equally, without regard to citizenship or immigration status, or national origin, during the hiring, firing, and employment eligibility verification and re-verification processes. Respondent shall avoid discrimination in the employment eligibility verification and re-verification processes by (a) honoring documentation that on its face reasonably appears to be genuine, relates to the person, and satisfies the requirements of 8 U.S.C. § 1324a(b); (b) not requesting more or different documents than are required by law; and (c) permitting all employees to present any document or combination of documents acceptable by law.
 6. Respondent shall not intimidate, threaten, coerce, or retaliate against any 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. Unless it has already done so, as a condition for its access to the Department of Homeland Security's E-Verify program, Respondent shall post an English and Spanish version of the Office of Special Counsel "If You Have The Right to Work" poster ("OSC Poster"), in color and measuring no smaller than 18" x 24", an image of which is available at <http://www.justice.gov/crt/about/osc/html/worker.php#>, in all places where notices to employees and job applicants are normally posted. The Notice will be posted within fourteen (14) calendar days from the effective date of this Agreement and will remain posted for one (1) year thereafter.
8. Within fifteen (15) calendar days of Respondent's receipt of a copy of this signed agreement, Respondent will revise its "Immigration Report" as necessary to exclude Form I-9 documents that do not require reverification, such as Permanent Resident cards, and to only reverify individuals in accordance with the USCIS Employment Eligibility Verification Handbook for Employers (M-274) ("Handbook").
9. Within fifteen (15) calendar days of Respondent's receipt of a copy of this signed agreement, Respondent will revise its letter template notifying employees of expiring Form I-9 documents by: 1) ensuring that Permanent Resident cards are not included in the letter; and 2) removing the sentence stating, "If you became a U.S. citizen you must provide proof of citizenship" and provide the Office of Special Counsel a copy of the revised letter to review. For employees whose Form I-9 documents require reverification, Respondent will ensure that it provides at least 90 days advance notice to those employees of their expiring Form I-9 document(s).
10. Respondent shall ensure that Respondent's human resources personnel, Recruiters, and HR Coordinators ("Verifying 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. A copy of this document and future revisions of the Form I-9, Handbook can be obtained from the United States Citizenship and Immigration Services at www.uscis.gov.
11. Within thirty (30) calendar days of receipt of a fully signed copy of this Agreement, Respondent shall modify its employment policies as they relate to nondiscrimination on the basis of citizenship status and national origin to:
 - (a) Prohibit (1) requesting employment eligibility verification documents from any individual prior to making an offer of employment; (2) discriminating on the basis of citizenship status or national origin in the hiring and firing process; and (3) discriminating 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 who complain, formally or informally, of discrimination in the hiring, firing, or Form I-9 employment eligibility verification and re-verification process immediately 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.

Respondent shall comply with the aforementioned policy.

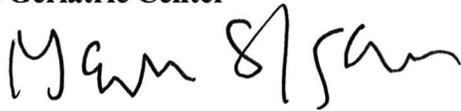
- 12. During the two (2) years following Respondent's receipt of a fully signed copy of this Agreement (the "Reporting Period"), Respondent shall provide any changes in employment policies as they relate to nondiscrimination on the basis of citizenship status and national origin to the Office of Special Counsel for review at least thirty (30) calendar days prior to the effective date of such revised policies.
- 13. Within ninety (90) calendar days of receipt of a fully signed copy of this Agreement, all Verifying Personnel shall be trained on their duty 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 remote 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 Verifying Personnel hired by Respondent after the training described in this paragraph has been conducted shall attend an Office of Special Counsel Employer/HR webinar within sixty (60) calendar days of hire.
 - (d) Respondent's Verifying Personnel will register for one of the Office of Special Counsel's remote webinar presentations entitled "OSC Employer/HR Representative webinar" at <http://www.justice.gov/crt/about/osc/webinars.php>.
 - (e) Respondent shall compile attendance records listing the individuals who attend the training described in this paragraph, in the form of Attachment "B," including their full name, title, signature, and the date of the training, and send the form via email to joann.sazama@usdoj.gov within ten (10) calendar days of the training session.

14. 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. 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.
15. During the Reporting Period, the Office of Special Counsel may conduct a random audit of Respondent's Forms I-9, including attachments. Respondent will provide requested documents within fifteen (15) calendar days of its receipt of the Office of Special Counsel's request, and shall produce such documents in electronic form unless requested otherwise.
16. 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. 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 to the Office of Special Counsel's satisfaction before Respondent is deemed by the Office of Special Counsel to be in violation of this Agreement.
17. This Agreement resolves any and all differences between the parties relating to this OSC Investigation through the date this Agreement is signed by the parties.
18. The provisions of paragraphs 1 and 2 notwithstanding, the Office of Special Counsel shall not seek from Respondent any additional civil penalty for the pattern or practice of unfair documentary practices that are the subject of this OSC Investigation, through the date this Agreement is signed by all parties.
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 and the Office of Special Counsel 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.

22. The Office of Special Counsel and Respondent 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.

Isabella Geriatric Center

By: 

Mark J. Kator
President and CEO

Dated: 7/31/14

Office of Special Counsel for Immigration-Related Unfair Employment Practices

By: 

Alberto Ruisanchez
Deputy Special Counsel

Dated: 8/5/14

Elise Sandra Shore
Special Litigation Counsel

Richard Crespo
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Joann Sazama
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