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

UNITED STATES OF AMERICA,	)	
COMPLAINANT,	)	
v.	)	8 U.S.C. § 1324b PROCEEDING
LOUISIANA CRANE COMPANY, LLC d/b/a LOUISIANA CRANE AND CONSTRUCTION,	)	OCAHO CASE NO. _____
RESPONDENT.	)	

COMPLAINT

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

1. Respondent engaged in a pattern or practice of discrimination against work-authorized, non-U.S. citizens when it required them to provide specific documents to establish their employment eligibility because of their citizenship status, in violation of 8 U.S.C. § 1324b(a)(6).

JURISDICTION

2. Pursuant to 8 U.S.C. §§ 1324b(c)(2) and (d)(1), Complainant investigates charges of, initiates investigations of, and prosecutes immigration-related unfair employment practices in violation of 8 U.S.C. § 1324b.

3. Respondent is a business that provides crane, construction, millwright and industrial services, and is a person or entity under 8 U.S.C. § 1324b(a)(6); 8 U.S.C. § 1101(b)(3); and 8 C.F.R. § 274a.1(b).

4. Respondent employed more than three employees at all times during the period of the immigration-related unfair employment practices described below.

5. On July 24, 2013, Complainant notified Respondent in writing that it had initiated an independent investigation pursuant to its authority under 8 U.S.C. §§ 1324b(c)(2) and (d)(1) to determine whether Respondent violated 8 U.S.C. § 1324b(a)(6).

6. Respondent and Complainant have signed a tolling agreement in which, among other stipulations, Respondent agrees it will not assert that Complainant's complaint is untimely if filed by September 2, 2014. The tolling agreement provided Respondent's new counsel with an opportunity to investigate the alleged practices, and gave the parties additional time to engage in settlement negotiations.

7. The Office of the Chief Administrative Hearing Officer's jurisdiction is invoked pursuant to 8 U.S.C. § 1324b(e)(1).

BACKGROUND

8. In 1986, Congress amended the Immigration and Nationality Act (INA) to require employers to review documentation from each new employee to ensure that the employee is eligible to work in the United States. 8 U.S.C. § 1324a(b).

9. Having created an employment eligibility verification requirement through 8 U.S.C. § 1324a(b), Congress also amended the INA to protect work-authorized individuals from employment discrimination based on citizenship status and national origin.

10. Consistent with Congress' purpose in 1986 that the employment eligibility verification process should apply equally to all work-authorized individuals, the INA's anti-discrimination provision prohibits a person or entity from subjecting individuals to

citizenship and national origin status discrimination in, among other things, employment eligibility verification. 8 U.S.C. § 1324b(a)(1), (a)(6).

11. During the initial employment eligibility verification process, new employees have a choice to present documentation establishing both identity and employment authorization (List A document), or a combination of an identity document (List B document) and an employment authorization document (List C document). *U.S. Citizenship and Immigration Services*, Form I-9, Employment Eligibility Verification (Form I-9, Rev. 03/08/13), p. 1. ("The individual may present either an original document which establishes both employment authorization and identity, or an original document which establishes employment authorization and a separate original document which establishes identity."); 8 C.F.R. § 274a.2(b)(1)(v).

STATEMENT OF FACTS

12. Respondent is headquartered at 1045 Highway 190 West in Eunice, Louisiana.

13. Respondent's employment eligibility verification of new employees occurs primarily in four administrative offices, which are located in Eunice, Louisiana; Alexandra, Louisiana; Asherton, Texas; and Pleasanton, Texas.

14. In November, 2011, Respondent signed a Memorandum of Understanding (MOU) with the Department of Homeland Security's E-Verify program and began using E-Verify for employment eligibility verification in December 2011.

15. As part of its MOU, Respondent agreed that it would "become familiar with and comply with the most recent version of the E-Verify User Manual [M-775]."

16. The E-Verify User Manual States that "Employers participating in E-Verify **MUST NOT**:…Specify or request which Form I-9 documentation a newly hired employee must use." (emphasis in the original).

17. From January 1, 2013, to September 1, 2013, Respondent hired over 350 lawful permanent residents and aliens authorized to work.

18. During this period of time, 100% of new-hires who Respondent initially ran through E-Verify as lawful permanent residents or aliens authorized to work were instructed to present List A documents for employment eligibility verification if the new-hires had not presented List A documents on their own initiative.

19. On November 4, 2013, one of Respondent's human resource representatives in charge of processing new hires, Jessica Hernandez, admitted in a taped interview that if a new-hire was a lawful permanent resident, and if the individual had not already produced a Permanent Resident Card (List A Document), Ms. Hernandez would request a Permanent Resident Card for employment eligibility verification before sending the individual's Form I-9 to corporate headquarters for final processing.

20. Ms. Hernandez also admitted that, if an individual was an alien authorized to work, the individual had to present a Permanent Resident Card or an Employment Authorization Document for the Form I-9.

21. Ms. Hernandez stated that Respondent's HR Director instructed her to request Permanent Resident Cards from lawful permanent residents for employment eligibility verification, as a condition of hire.

22. From at least January 1, 2013, until at least September 1, 2013, Respondent's standard operating procedure was to require non-U.S. citizen employees to produce List A documents for employment eligibility verification.

23. At all relevant times, Respondent did not require U.S. citizen employees to present specific documents for employment eligibility verification.

24. At all relevant times, Respondent allowed U.S. citizen new hires to present their document of choice from the Lists of Acceptable Documents.

25. From at least January 1, 2013, until at least September 1, 2013, Respondent knowingly treated non-U.S. citizens differently by limiting the documents they could present for the Form I-9 on account of their citizenship status.

PATTERN OR PRACTICE OF DOCUMENT ABUSE IN THE FORM I-9 EMPLOYMENT ELIGIBILITY VERIFICATION PROCESSES

26. Complainant incorporates by reference the allegations set forth in paragraphs 1 through 25 as if fully set forth herein.

27. Respondent's standard operating procedure, from at least January 1, 2013, until at least September 1, 2013, was to require all non-U.S. citizen employees to provide List A documents for the employment eligibility verification process based on the employees' citizenship status.

28. During this same time, U.S. citizen employees were not subjected to the same requirement to provide specific documentation during the Form I-9 employment eligibility verification process based on their citizenship status.

29. Respondent's differential treatment of non-U.S. citizen employees in the employment eligibility verification processes was intentional, discriminatory, and in violation of 8 U.S.C. § 1324b(a)(6).

30. Respondent's actions were committed with the intent to discriminate against non-U.S. citizens on the basis of their citizenship status and constitute a pattern or practice of document abuse in violation of 8 U.S.C. § 1324b(a)(6).

REQUEST FOR RELIEF

THEREFORE, Complainant respectfully requests:

A. That the Office of the Chief Administrative Hearing Officer assign an Administrative Law Judge to preside at a hearing on this matter as soon as practicable; and

B. That the Administrative Law Judge grant the following relief:

1. Order Respondent to cease and desist from the alleged illegal practices described in the complaint and take other appropriate measures to overcome the effects and prevent the recurrence of the discriminatory practices;
2. Order Respondent to provide full remedial relief to any individuals for the losses they have suffered as a result of the discrimination alleged in this complaint, including providing back pay and reinstatement;
3. Order Respondent to pay an appropriate civil penalty as determined by the Administrative Law Judge for each work-authorized individual who is found to have been subjected to the discriminatory practices alleged in this complaint; and
4. Order such additional relief as justice may require.

Respectfully Submitted,

MOLLY MORAN
Acting Assistant Attorney General
Civil Rights Division

FORREST CHRISTIAN
Acting Senior Counsel to the Assistant Attorney General
Civil Rights Division

By: _____

ALBERTO RUISANCHEZ
Deputy Special Counsel

LIZA ZAMD
Trial Attorney

Office of Special Counsel for Immigration-Related
Unfair Employment Practices
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530
Telephone: (202) 307-2246
Facsimile: (202) 616-5509

Dated: _____, 2014