



U.S. Department of Justice

*United States Attorney
Southern District of Georgia*

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July 13, 2023

Via US Mail & Electronic Mail

Edward E. McNally
Kasowitz Benson Torres LLP
1633 Broadway
New York, New York 10019
emcnally@kasowitz.com

Daniel J. Fetterman
Kasowitz Benson Torres LLP
1633 Broadway
New York, New York 10019
dfetterman@kasowitz.com

John R. Mitchell
Taft Stettinius & Hollister, LLP
200 Public Square Suite 3500
Cleveland, Ohio 44114-2302
jmitchell@taftlaw.com

**Re: Non-Prosecution and Settlement Agreement for Davey
Tree Expert Company and Wolf Tree, Inc.**

Dear Messrs. McNally, Fetterman, and Mitchell:

This letter serves as acknowledgment of an agreement between your clients, The Davey Tree Expert Company (“Davey Tree”) and its wholly-owned subsidiary, Wolf Tree, Inc. (“Wolf Tree”), the United States Attorney’s Office for the Southern District of Georgia (“United States Attorney”) and the United States Department of Homeland Security (“DHS”).

On August 19, 2017, Eliud Montoya was shot and killed after he reported that his supervisor, Pablo Rangel-Rubio, was an illegal alien who hired other illegal aliens at Wolf Tree. Pablo Rangel-Rubio and his brother, Juan Rangel-Rubio, another Wolf Tree employee, were ultimately convicted for their roles in a conspiracy to kill Mr. Montoya and a conspiracy to conceal, harbor, and shield illegal aliens. *See United States v. Rangel-Rubio*, Southern District of Georgia, Criminal Cases 4:18-CR-274 and 4:22-CR-30. Oscar Cruz also was employed at Wolf Tree and was Pablo Rangel-

Rubio's assistant prior to Montoya's murder. Oscar Cruz was convicted for his role in a conspiracy to conceal, harbor, and shield illegal aliens. See *United States v. Oscar Cruz*, Southern District of Georgia, Criminal Case 4:18-CR-267.

The United States Attorney notified Davey Tree and Wolf Tree, through counsel, that it was investigating the murder of Eliud Montoya and their hiring of illegal aliens at Davey Tree and Wolf Tree. The United States Attorney further notified Davey Tree and Wolf Tree, through counsel, that the corporate entities are targets of a federal criminal investigation into possible violations of the Immigration Reform and Control Act, 8 U.S.C. §§ 1324a *et seq.*

The United States Attorney further notified Davey Tree and Wolf Tree, through counsel, that it believes it may have certain civil claims against Davey Tree and Wolf Tree under the Immigration and Nationality Act, 8 U.S.C. §§ 101 *et seq.*, and the Immigration Reform and Control Act, 8 U.S.C. §§ 1324a *et seq.*, for, *inter alia*, the hiring and continued employment of illegal aliens, failure to verify prospective employees' authorization status, and the forgery, falsification, and alteration of documents to satisfy or obtain benefits under the Immigration Reform and Control Act.

Davey Tree and Wolf Tree, through counsel, requested to enter discussions to globally resolve the criminal and civil investigations. The United States Attorney communicated to Davey Tree and Wolf Tree, through counsel, that it would not pursue criminal charges or civil claims against Davey Tree or Wolf Tree, if Davey Tree and Wolf Tree agreed to the conditions set forth in the Non-Prosecution and Settlement Agreement that is attached to this letter.

If Davey Tree and Wolf Tree understand and assent to the terms of this agreement, please execute the attached document and return it to any of the government attorneys who are signatories to this letter.



Jill E. Steinberg
United States Attorney
Southern District of Georgia

Sincerely,



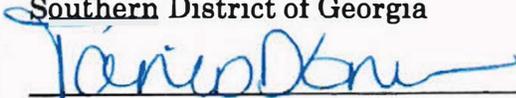
Tara M. Lyons
First Assistant United States Attorney
Southern District of Georgia



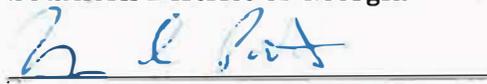
Patricia G. Rhodes
Chief, Criminal Division
Southern District of Georgia



Shannon Heath Statkus
Chief, Civil Division
Southern District of Georgia



Tania D. Groover
Deputy Chief, Criminal Division
Southern District of Georgia



Bradford C. Patrick
Deputy Chief, Civil Division
Southern District of Georgia

**NON-PROSECUTION AND SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA, THE DAVEY TREE EXPERT
COMPANY, AND ITS WHOLLY-OWNED SUBSIDIARY, WOLF TREE, INC.**

This document and the attached letter contain the complete non-prosecution and settlement agreement (the “Agreement”) between The Davey Tree Expert Company (“Davey Tree”) and its wholly-owned subsidiary Wolf Tree, Inc. (“Wolf Tree”) and the United States of America, acting through the United States Attorney’s Office for the Southern District of Georgia (“United States Attorney”) and on behalf of the United States Department of Homeland Security (“DHS”), hereinafter collectively referred to as “the Parties,” through their authorized representatives.

RECITALS

A. Davey Tree, an Ohio corporation with its principal place of business in Kent, Ohio, and Wolf Tree, a Tennessee corporation, enter into this Agreement on behalf of Davey Tree and all its affiliates and subsidiaries, including Wolf Tree.

B. Davey Tree and Wolf Tree are corporations that provide, among other things, tree trimming services for utility companies.

C. Between at least March 24, 2016, and continuing through April 30, 2018, Davey Tree and/or Wolf Tree contracted with Georgia Power, an electric utility company, to trim trees along the power lines in the Savannah, Georgia area.

D. Between at least March 24, 2016, and continuing through August 19, 2017, Eliud Montoya, Pablo Rangel-Rubio, Juan Rangel-Rubio (who was working under false names), and Oscar Cruz were employed by Wolf Tree in the Savannah, Georgia area and worked in various capacities on the contracts between Davey Tree and/or Wolf Tree and Georgia Power.

E. The United States Attorney contends that between October 12, 2011, and August 19, 2017, Pablo Rangel-Rubio hired illegal aliens and provided the illegal aliens with assumed identities, including false names and social security numbers, to allow the illegal aliens to work for Wolf Tree unlawfully. The United States Attorney contends that from approximately May 27, 2013 and continuing through August 19, 2017, Oscar Cruz conspired to conceal, harbor and shield illegal aliens. The United States Attorney further contends that to conceal the illegal aliens' unlawful status and ineligibility to work in the United States, Pablo Rangel-Rubio and Oscar Cruz used the assumed identities to falsify employment paperwork, timesheets, and payroll information for the illegal aliens. Pablo Rangel-Rubio, Oscar Cruz, and Juan Rangel-Rubio concealed the illegal aliens' unlawful status and ineligibility to work in the United States by diverting paychecks in the names of the assumed identities to their own bank accounts, both for their own personal gain and to pay the illegal aliens in cash to avoid detection. The United States Attorney further contends that Davey Tree concluded an audit of its employee files, including those of Wolf Tree employees, in April 2018, determining that a percentage of its employees did not or could not provide sufficient documentation to demonstrate their authorization to be employed in the United States. The United States Attorney contends that beginning at least as early as October 12, 2011, continuing through April 30, 2018, Davey Tree and Wolf Tree unlawfully hired, recruited, referred, or continued to employ unauthorized workers; unlawfully failed to sufficiently verify prospective employees' employment authorization status; unlawfully forged, counterfeited or altered employment eligibility documents or unlawfully used or possessed forged, counterfeited, or altered employment eligibility documents; and unlawfully used employment eligibility

documents issued to persons other than the employee. The conduct described in this paragraph shall be referred to in this Agreement as the “Covered Conduct.”

F. The United States Attorney further contends that Eliud Montoya was killed after he reported that his supervisor, Pablo Rangel-Rubio, was an illegal alien and hiring other illegal aliens.

G. The United States Attorney contends that Davey Tree and Wolf Tree have committed certain criminal offenses under 8 U.S.C. § 1324(a)(1)(A)(iii) (concealing, harboring, or shielding illegal aliens) and 8 U.S.C. § 1324a(a)(1) (unlawful employment of aliens) in connection with the Covered Conduct.

H. The United States Attorney contends that it has certain civil claims against Davey Tree and Wolf Tree under 8 U.S.C. §§ 1324a(a)(1), (2) and 1324c(a) in connection with the Covered Conduct.

I. The United States Attorney recognizes that since August 2017, Davey Tree and Wolf Tree have both fully cooperated with its criminal and civil investigation concerning the Covered Conduct.

J. In reaching its decision to enter into this Agreement, the United States Attorney has considered Davey Tree and Wolf Tree’s implementation of a significant compliance program to prevent recurrence of the Covered Conduct and to protect employee whistleblowers seeking to report any potential violations to Davey Tree and Wolf Tree. The United States Attorney further recognizes that Davey Tree and Wolf Tree have provided updates on its implemented compliance program at periodic intervals between August 2017 and March 2023.

K. Pablo Rangel-Rubio, Juan Rangel-Rubio, and Oscar Cruz were terminated from Wolf Tree and have all been convicted for their individual roles in

the conspiracy to murder Eliud Montoya and in the conspiracy to conceal, harbor, and shield illegal aliens.

L. This agreement is neither an admission of liability by Davey Tree or Wolf Tree, nor a concession by the United States that its claims are unfounded.

M. In consideration for Davey Tree and Wolf Tree's cooperation with the investigation, the strength of their modified compliance program since August 2017, the criminal accountability of former employees, to avoid the delay and uncertainty of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Davey Tree and Wolf Tree shall pay to the United States, within 21 days of the Effective Date of the Agreement, \$3,984,325.44 (the "Settlement Amount"), by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Southern District of Georgia, except regarding the payment method prescribed regarding forfeiture in paragraph 1.b. below, itemized as follows:

a. restitution in the amount of \$1,326,000 to the estate of Eliud Montoya for lost future income, and restitution in the amount of \$21,804.25 to Juan Ramirez for back wages;

b. forfeiture in the amount of \$1,136,521.19 ("Subject Property"), pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(6)(A), 1961(1); 8 U.S.C. § 1324(b); and 28 U.S.C. § 2461, said amount representing property that constitutes or is derived from or is traceable to the gross proceeds obtained directly or indirectly from the

commission of violations of 8 U.S.C. § 1324(a) and which the United States Attorney contends Davey Tree and Wolf Tree obtained through the contracts with Georgia Power between April 18, 2017, and August 19, 2017, delivered in the form of a cashier's check in bearer form, endorsed without restriction, or otherwise in such form that title thereto passes upon delivery; and

c. civil penalties in the amount of \$1,500,000 pursuant to 8 U.S.C. §§ 1324a(e)(4)(A) and 1324c(d)(3).

2. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and upon receipt of the complete Settlement Amount, the United States Attorney agrees that it will not bring any criminal charges against Davey Tree or Wolf Tree relating to the Covered Conduct.

3. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and upon receipt of the complete Settlement Amount, the United States releases Davey Tree and Wolf Tree from civil liability relating to the Covered Conduct under 8 U.S.C. §§ 1324a(a)(1), (2) and 1324c(a).

4. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and upon receipt of the complete Settlement Amount, DHS releases Davey Tree and Wolf Tree from administrative liability relating to the Covered Conduct.

5. Notwithstanding the release given in Paragraphs 2, 3, and 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code) or the Georgia Revenue and Taxation Code, O.C.G.A. § 48-1-1, *et seq.*;

b. Except as explicitly stated in this Agreement, any administrative liability or enforcement right;

c. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

d. Any liability of individuals; and

e. Any liability based upon obligations created by this Agreement.

6. Davey Tree and Wolf Tree agree to forfeit and abandon all right, title, and interest in the Subject Property. Davey Tree and Wolf Tree consent to the forfeiture of the Subject Property pursuant to any federal criminal judicial, civil judicial, or administrative forfeiture action. Davey Tree and Wolf Tree represent that they are the sole owners of the Subject Property and Davey Tree and Wolf Tree further agree to not file any claim, answer, or petition for remission or mitigation in any administrative or judicial proceeding pertaining to the Subject Property. If any such document has already been filed, Davey Tree and Wolf Tree hereby withdraw that filing. Forfeiture of the Subject Property shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other cost or penalty the Court may impose upon Davey Tree or Wolf Tree in addition to forfeiture. Davey Tree and Wolf Tree also agree to waive and forego all constitutional, statutory, procedural, legal, and equitable challenges, claims, and defenses (including direct appeal, habeas corpus, or any other request for relief) to any forfeiture or abandonment carried out in accordance with this agreement on any grounds, including but not limited to alleged violations of the Eighth Amendment to the U.S. Constitution, the *Ex Post Facto* clause of the Constitution, principles of double jeopardy, any statute of limitation, any notice provision, any filing or response deadline, The Civil Asset

Forfeiture Reform Act (CAFRA) (18 U.S.C. § 983, *et seq.*), Fed. R. Crim. P. 32.2 and 41(g), any venue requirement, or any other law or equitable principle. Further, Davey Tree and Wolf Tree knowingly and voluntarily waive their right to any required notice concerning the forfeiture of the Subject Property, including notice set forth in an indictment, information or administrative notice. In addition, Davey Tree and Wolf Tree knowingly and voluntarily waive their right, if any, to a jury trial on forfeiture of the Subject Property. Davey Tree and Wolf Tree agree that the forfeiture provisions of this agreement are intended to, and will, survive any dissolution, change of ownership or bankruptcy of Davey Tree and/or Wolf Tree. The forfeitability of any particular property pursuant to this agreement, including but not limited to the Subject Property shall be determined as if Davey Tree and Wolf Tree had survived, and that determination shall be binding upon the heirs, successors, and assigns of Davey Tree and Wolf Tree until the agreed forfeiture, including any agreed forfeiture amount, is collected in full. Davey Tree and Wolf Tree agree to unconditionally release and hold harmless the United States and all local, state, and federal agencies, their officers, employees, contractors, and agents, from any and all claims demands, damages, causes of action or suits, of whatever kind that might now exist or hereafter exist relating to the seizure, restraint, disposal, destruction, retention, and/or forfeiture of the Subject Property. Davey Tree and Wolf Tree agree to take all steps requested by the government to facilitate the forfeiture, either administrative or judicial, of the Subject Property to the government. These steps include, but are not limited to, the surrender of title, signing of a consent decree or declaration of forfeiture, and signing any other documents necessary to effectuate such transfer.

7. Davey Tree and Wolf Tree waive and shall not assert any defenses they may have to any administrative claims relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such administrative action.

8. Davey Tree and Wolf Tree agree to cooperate fully and truthfully with the investigation of individuals and entities not released in this Agreement by any state or federal investigatory agency. Upon reasonable notice, Davey Tree and Wolf Tree shall encourage, and agree not to impair, the cooperation of its directors, officers, and employees, and shall use their best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Davey Tree and Wolf Tree further agree to furnish to any state or federal investigatory agency, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in their possession, custody, or control concerning any investigation of the Covered Conduct that they have undertaken, or that has been performed by another on their behalf.

9. The United States Attorney's obligation, pursuant to this Agreement, to forgo prosecution will attach only once, and will endure only for so long as, all of the terms and conditions are satisfied.

10. Upon the failure of Davey Tree or Wolf Tree to meet any of the terms and conditions set forth in this Agreement, the United States Attorney and DHS are discharged from their obligations under this agreement, and Davey Tree and Wolf

tree agree to waive any statute of limitations that have not previously lapsed applicable to any federal criminal, civil, or administrative charges or claims brought against Davey Tree or Wolf Tree in connection with the Covered Conduct between the Effective Date and the commencement of such prosecution or civil action.

11. Davey Tree and Wolf Tree, fully and finally release the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Davey Tree and/or Wolf Tree, have asserted, could have asserted, or may assert in the future against the United States, and its agencies, officers, agents, employees, and servants related to the Covered Conduct and the investigation and prosecution thereof.

12. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity. The Parties reserve all rights, except as otherwise provided in this Agreement.

13. Each party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

14. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

15. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Southern District of Georgia. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by

all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

16. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

17. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

18. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

19. This Agreement is binding on Davey Tree's and Wolf Tree's successors, transferees, heirs, and assigns.

20. All parties consent to the Government's disclosure of this Agreement, and information about this Agreement, to the public.

21. This Agreement is effective on the date of signature of the last signatory to the Agreement (the "Effective Date" of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

Signatures on the Following Pages

THE UNITED STATES OF AMERICA

We accept and agree to this Agreement on behalf of the United States. This Agreement, together with the attached letter, accurately and completely sets forth the entire agreement between the Parties.

DATED: July 13, 2023

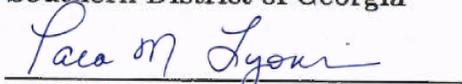
BY:



JILL E. STEINBERG
United States Attorney
Southern District of Georgia

DATED: 7/12/2023

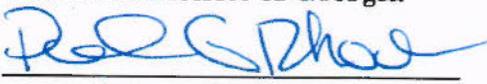
BY:



TARA M. LYONS
First Assistant United States Attorney
Southern District of Georgia

DATED: July 13, 2023

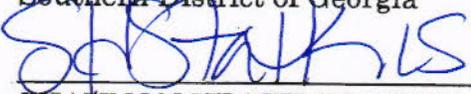
BY:



PATRICIA G. RHODES
Chief, Criminal Division
Southern District of Georgia

DATED: July 11, 2023

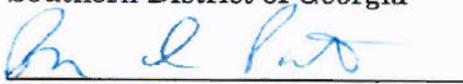
BY:



SHANNON HEATH STATKUS
Chief, Civil Division
Southern District of Georgia

DATED: July 13, 2023

BY:



BRADFORD C. PATRICK
Deputy Chief, Civil Division
Southern District of Georgia

DATED: July 13, 2023

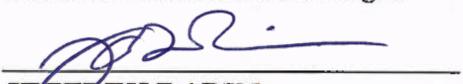
BY:



TANIA D. GROOVER
Deputy Chief, Criminal Division
Southern District of Georgia

DATED: 7/12/2023

BY:



JEFFREY DARIN
Deputy Special Agent in Charge
Homeland Security Investigations

THE DAVEY TREE EXPERT COMPANY

I have read this Non-Prosecution and Settlement Agreement and have discussed its terms fully with my client, The Davey Tree Expert Company. This document and the attached letter accurately and completely set forth the entire agreement between the Parties. I concur in The Davey Tree Expert Company agreeing to the terms and conditions set forth in this agreement.

DATED: July 12, 2023 BY: 
EDWARD E. McNALLY
Kasowitz Benson Torres LLP
Counsel for The Davey Tree Expert Company

DATED: July 12, 2023 BY: 
DANIEL J. FETTERMAN
Kasowitz Benson Torres LLP
Counsel for The Davey Tree Expert Company

DATED: July 12, 2023 BY: 
JOHN R. MITCHELL
Taft Stettinius & Hollister, LLP
Counsel for The Davey Tree Expert Company

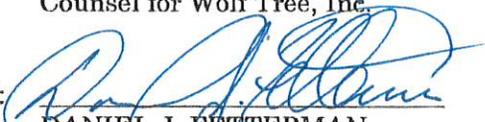
I have read this Non-Prosecution and Settlement Agreement and discussed all its terms with my attorneys. I understand it, and I voluntarily agree to it. I do not wish to change any part of it.

DATED: July 12, 2023 BY: 
ERIKA SCHOENBERGER
The Davey Tree Expert Company
General Counsel and Corporate Secretary

WOLF TREE, INC.

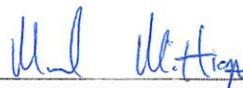
I have read this Non-Prosecution and Settlement Agreement and have discussed its terms fully with my client, Wolf Tree, Inc. This document and the attached letter accurately and completely set forth the entire agreement between the Parties. I concur in Wolf Tree, Inc. agreeing to the terms and conditions set forth in this agreement.

DATED: July 12, 2023 BY: 
EDWARD E. McNALLY
Kasowitz Benson Torres LLP
Counsel for Wolf Tree, Inc.

DATED: July 12, 2023 BY: 
DANIEL J. FETTERMAN
Kasowitz Benson Torres LLP
Counsel for Wolf Tree, Inc.

DATED: July 12, 2023 BY: 
JOHN R. MITCHELL
Taft Stettinius & Hollister, LLP
Counsel for Wolf Tree, Inc.

I have read this Non-Prosecution and Settlement Agreement and discussed all its terms with my attorneys. I understand it, and I voluntarily agree to it. I do not wish to change any part of it.

DATED: July 12, 2023 BY: 
MICHAEL MITTIGA
Wolf Tree, Inc.
Vice President and Manager