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OSC Letters of Resolution

OSC issued letters of resolution to U.S. employers who voluntarily entered into bilateral and unilateral settlement agreements with the charging parties resolving discrimination charges. Letters of resolution were also issued to conclude independent investigations where the employer has voluntarily corrected its practices and no victims were identified.

The following are summaries of letters of resolutions issued in fiscal year 2011 (October 1, 2010 - September 30, 2011):

FY2011

On October 4, 2010, OSC issued a letter of resolution to Fulcrum Logic, Inc. dismissing a charge of citizenship status discrimination based on Fulcrum's immediate corrective action upon learning of the online posting, including: (1) re-training its recruitment staff on Fulcrum's recruitment and hiring process, (2) requiring management approval prior to the posting of any online advertisements, (3) creating an internal audit team to review all online postings on a bimonthly basis, (4) advising recruitment personnel that deviations from Fulcrum recruitment guidelines would result in appropriate disciplinary actions, and (5) terminating the employment of the Fulcrum employee that had published the online posting in question. The Charging Party, a U.S. citizen, alleged that Fulcrum had published an online job posting indicating a preference for non-immigrant H-1B visa holders. The investigation established that the online posting in question had been drafted and published by a new Fulcrum employee without authority and in violation of then-existing Fulcrum policies and practices. The investigation also established that Fulcrum had only hired U.S. workers since in the six months prior to the (Short Hills, NJ)

On October 15, 2010, OSC issued a letter of resolution dismissing a charge of document abuse against TrueBlue, Inc. d/b/a Labor Ready Northeast, Inc. The charge was dismissed as a result of Labor Ready's revision of its employment eligibility verification policies and extension of a job offer to the charging party. In addition, Labor Ready will train all branch employees on proper employment eligibility verification procedures. (Kenmore, NY)

On October 15, 2010, OSC issued a letter of resolution to JC Penney dismissing a charge of document abuse and citizenship status discrimination filed by an LPR. The charging party alleged that during the job application process, JC Penney demanded that he provide documentation other than his foreign passport containing an I-551 stamp. OSC dismissed the charge based on JC Penney's agreement that: (1) it will not request employment eligibility verification

documents from any individual prior to making an offer an employment to the individual; and (2) it will train all managers and HR employees on how to properly complete the DHS employment eligibility verification (Form I-9) process. (Pineville, NC)

On November 4, 2010, OSC issued a letter of resolution resolving a discrimination charge against FedEx Office and Print Services, Inc. The charging party alleged that FedEx Office committed document abuse and citizenship status discrimination by refusing to accept the charging party's valid EAD and subsequently terminating him. As a result of our investigation, FedEx Office determined the charging party was eligible to be rehired and invited the charging party to reapply for a new position. (Palo Alto, CA)

On November 8, 2010, OSC issued a letter of resolution resolving a discrimination charge against S.N., Inc. The charging party, an LPR, alleged that S.N., Inc. committed citizenship status discrimination when it terminated him rather than an undocumented worker. As a result of OSC's investigation, the parties entered into a bilateral agreement providing for \$2,000 in back pay to the charging party. The charging party did not seek reinstatement because he had secured a better position at another company. (Vernon, CA)

On November 15, 2010, OSC issued a letter of resolution resolving a discrimination charge against North Los Angeles County Regional Center (LA Center). The charge alleged that LA Center committed document abuse when it required a U.S. citizen to re-verify her employment eligibility when her driver's license expired. As a result of OSC's investigation, LA Center agreed to revise its policy so that employees will not be required to re-verify their employment eligibility upon the expiration of their List B documents (establishing identify). In addition, LA Center will provide training to its human resources personnel on the proper procedures to follow in meeting the requirements of employment eligibility document verification pursuant to 8 U.S.C. 1324b. (Van Nuys, CA)

On February 2, 2011, OSC issued a letter of resolution dismissing a charge of document abuse based upon bilateral agreement entered by the parties resolving the matter. The charge alleged that Melwood Horticultural Training Center terminated a Salvadoran TPS recipient after the expiration date on his EAD despite the fact that his work authorization had been automatically extended pursuant to a *Federal Register* notice issued by DHS. The bilateral agreement included reinstatement and \$400 back pay for the one week that the TPS recipient was out of work. (Upper Marlboro, MD)

On February 8, 2011, OSC issued a letter of resolution dismissing a charge of document abuse filed by a United States citizen raised in Mexico against Steve DeClerck Enterprise, Inc., which owns several Taco Bell restaurants in Oregon. The charging party alleged that her Taco Bell supervisor had demanded a "green card" (LPR or I-551) from her. OSC dismissed the charge based on the respondent's commitment to train the responsible Taco Bell supervisor on the I-9 process and the anti-discrimination provision of the INA, and employer's agreement to provide the charging party \$1,092 in back pay. (Woodburn, OR)

On February 10, 2011, OSC issued a letter of resolution to LTD Hospitality Group, dismissing a charge of document abuse and citizenship status discrimination filed by an LPR. The charging party alleged that his employer demanded that he provide documentation other than his foreign passport containing an I-551 stamp and terminated him when he failed to produce other documentation. OSC dismissed the charge based on the employer's agreement to participate in OSC-led training of HR employees and other managers involved in the Form I-9 process, including at the employer's 25 other hotels, on how to complete the DHS

employment eligibility verification (Form I-9) process and comply with the INA's anti-discrimination provision. (Chesapeake, VA)

On March 8, 2011, OSC issued a letter of resolution following its independent investigation of ABC Swimming Pool Products ("ABC"). OSC initiated the investigation when it was brought to our attention that ABC posted a sign on its storefront window which stated "Hiring Americans Only", which could be interpreted to mean the company would only hire U.S. citizens. ABC stated that the sign was intended to state that only employment-eligible persons would be hired. A review of ABC's workforce indicated employment of U.S. citizens and non-citizens from various national origins. However, because the sign is susceptible of misinterpretation by potential non-citizen job applicants, ABC took it down and agreed to receive training on the anti-discrimination provision of the INA. (Los Alamitos, CA)

On March 8, 2011, OSC issued a letter of resolution, resolving a charge of discrimination against Biltmore Farms, LLC. The charge of discrimination alleged that Biltmore Farms improperly terminated and refused to reinstate the Charging Party despite her status as a work authorized individual. Although the Charging Party was not entitled to legal relief, Biltmore Farms agreed to timely inform the Charging Party of the next available hiring opportunity for the position from which she was terminated and to invite her to submit an application for the position. (Asheville, NC)

On April 26, 2011, OSC issued a letter of resolution closing an independent investigation to determine whether language contained in one of the Center for Social Leadership's ("CSL") job postings violated the protections against citizenship status and national origin discrimination under 8 U.S.C. § 1324b(a)(1) (A) & (B). CSL agreed to republish the job posting without the discriminatory language and to closely monitor future job announcements to ensure compliance with anti-discrimination laws. (Washington, D.C.)

On April 29, 2011, OSC issued a letter of resolution dismissing a discrimination charge against an Express Employment Professionals, Inc., franchise in Fort Worth, Texas. The employer ran an existing authorized worker through E-Verify multiple times and months after the worker began employment. The employer then suspended the worker when he received an erroneous DHS Tentative Nonconfirmation (TNC) in E-Verify that he contested. The employer modified its policies, in place at over 500 franchises throughout the country, to reflect that E-Verify cannot be run on existing employees and that individuals that contest TNCs cannot be deprived of work opportunities. The employer paid full back pay to the Charging Party for lost wages during his suspension in the amount of \$541 and agreed to train its assistance center, training, risk management, and human resources workers throughout headquarters and the franchises on the INA anti-discrimination provision through a combination of online modules and live training. (Fort Worth, TX)

On April 29, 2011, OSC dismissed a charge filed against Towne Park, Ltd., after the parties entered into a bilateral resolution wherein the Charging Party accepted restitution of back pay in the sum of \$1,692.41 and the Respondent amended its employment authorization review process to include a secondary review before rejecting an employee's documents. The Charging Party, an LPR, alleged that the Respondent committed document abuse in violation of 8 U.S.C. §1324b when it refused to accept his foreign passport with an I-551 stamp issued by DHS confirming his employment eligibility. (Vail, CO)

On May 16, 2011, OSC issued a letter of resolution with Carolina Personnel Services. The Charging Party, a U.S. citizen, alleged that the Respondent rejected

his valid I-9 documents and required him to bring in additional proof of identity.
The letter of resolution includes revisions to policies and training on the anti-discrimination provision of the INA. (Columbia, SC)

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