

U.S. Department of Justice  
Civil Rights Division

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Special Counsel for Immigration Related  
Unfair Employment Practices, NYA  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

April 28, 2009

**BY CERTIFIED MAIL**

Re: Charged Filed Against  
Charge Number

Dear Mr.

On March 20 and April 16, 2009, the United States Department of Labor forwarded to the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) complaints it had received from the Mid Atlantic Regional Organizing Committee (“Charging Party” or “MAROC”) about your company’s hiring practices. On April 20, 2009, OSC accepted as complete a charge pursuant to 8 U.S.C. § 1324b by MAROC against XXXXX...

MAROC States that XXXXX (“Company”) has a pattern or practice of discriminating against domestic workers in the hiring process in preference for H-2B visa workers. MAROC further alleges that Company refused to accept an employment application from (named person), on account of his national origin and/or citizenship status (U.S. Citizen) on November 12, 2008, because the Company prefers to employ H-2B visa workers. Initially, this Office has 120 days from the date of receipts of the charge, until August 18, 2009, to investigate and determine whether there is a reasonable cause to believe that the charge is true, and to bring a complaint before a specially designated administrative law judge. Please note that it is illegal to retaliate against a person who has filed a charge of discrimination, who is a witness, or who otherwise participates in an investigation by this Office.

The law provides that the Office of Special Counsel must be provided reasonable access to examine the evidence of any person or entity being investigated. Please note that it is illegal to destroy and Company documents following receipt of this notice. In this letter and subsequent correspondence with the Office of Special Counsel, the use of the term “document” or “documents” refers to paper as well as to electronic communications and electronic storage media. The rules prohibiting the destruction of paper documents apply to electronically-stored information in the same manner and you should ensure that relevant evidence is not destroyed or altered. The production of evidence can be compelled by subpoena. However, we prefer to proceed informally at this stage of the investigation. Accordingly, please provide the following information by **May 19, 2009**:

1. State the Company’s legal name, and describe its corporate and organizational structure.
  - A. Describe the nature of the Company’s business.
  - B. State the total number of persons the Company employed on October 17, 2008.
  - C. Identify by name, job title, address and telephone number the Company’s custodian of personnel records.

2. State whether (named person) sought employment with the Company.
  - A. If so, state the date(s) of all communications between the Company and (named person) and describe the details and substance of each communication.
3. Provide the name and contact information of everyone who sought work with your Company from September 2, 2008, until February 28, 2009.
  - A. State whether or not they were hired and, if so, when.
  - B. If they were not hired, explain why not.
4. Provide the name and contact information of everyone who sought work with your Company from September 1, 2007, until September 1, 2008.
5. State whether the Company employed, or is employing H-2B visa workers in 2009.
  - A. If so, list their names, start dates, job duties, and the cumulative number of hours each one has worked since January 1, 2009. Please also identify the job order number(s) which describe(s) their duties and work locations, and provide a copy of the job order.
  - B. If there were/are any domestic works in corresponding employment performing similar job duties, list their names, start dates, end date, job duties, and the cumulative number of hours each one worked. Please also identify the job order number(s) which describe(s) their duties and work locations.
6. State whether the Company employed any H-2B visa workers in 2008.
  - A. If so, list their names, start dates, job duties, and the cumulative number of hours each one has worked in 2008. Please also identify the job order number(s) which describe(s) their duties and work locations, and provide a copy of the job order.
  - B. If there were/are any domestic works in corresponding employment performing similar job duties, list their names, start dates, end date, job duties, and the cumulative number of hours each one worked in 2008. Please also identify the job order number(s) which describe(s) their duties and work locations.
7. Provide and I-9 Form for each employee who was hired on or after December 31, 2007, together with copies of supporting documentation, if such copies were made, and all attachments.
8. Describe the Company's policies and procedures regarding the hiring and/or employment of U.S. citizens and non-U.S. citizens since July 1, 2006. Include an explanation of all policies and procedures related to the completion and re-verification of I-9 Forms. In addition:
  - A. Provide all documents referring or relating to such policies and procedures, including, but not limited to, personnel manuals, memoranda, e-mails, etc.
  - B. If there has been more than one policy or procedure, describe each one and provide the effective dates.
  - C. Provide the name, job title, address and telephone number of each person who had responsibility for creating, implementing, and/or drafting such policies and procedures.
9. Provide copies of all recruitment reports created, including any that were submitted to either the Employment and Training Administration (ETA), or a State Workforce Agency (SWA) from September 1, 2007, until March 1, 2009.

10. Provide copies of all other documents sent to or received from ETS or SWA from September 1, 2008, until March 1, 2009, related to any efforts to obtain employees and advertise vacancies.
11. Provide copies of all other documents sent to or received from ETS or SWA from September 1, 2007, until March 1, 2008, related to any efforts to obtain H-2B visa workers.
12. Provide all other information relevant to the resolution of the instant charge against the Company, including a response to the allegations summarized in paragraph two of this letter.

If you have any questions or would like to discuss this letter, you may reach me directly at (202) 305-1835. In any correspondence with this office, please make reference to the charge number listed above. Please send all correspondence to me at: United States Departments of Justice, Civil Rights Division, Office of Special Counsel For Immigration Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW, NYA, Washington, DC 20530. Please note if you need to send correspondence to me via overnight mail, please send it to me at 1425 New York Avenue, NW, Suite 9000, Washington, DC 20005. My fax number is (202) 616-5509. Thank you for your anticipated cooperation in this matter.

Sincerely,

Katherine A. Baldwin  
Deputy Special Counsel

BY:

Erik W. Lang  
Trial Attorney