

# CONCILIATION AGREEMENT

Between

THE U. S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

and

SEARS, ROEBUCK AND CO.

## **PART I. PRELIMINARY STATEMENT**

The Office of Federal Contract Compliance Programs ("OFCCP") commenced a compliance evaluation of Sears, Roebuck and Co., Bel Air Mall Unit # 01056 ("Sears"), formerly located at 3201 Bel Air Mall, Mobile, Alabama 36606 on May 23, 2011 and found that Sears was not in compliance with the Executive Order 11246, as amended ("E.O. 11246") and its implementing regulations at 41 C.F.R. Sections 60-1, and 60-3. OFCCP notified Sears of the specific violations found and the corrective actions required in a Notice of Violation issued on April 27, 2015. In the interest of resolving the violations without engaging in further legal proceedings and in exchange for the good and valuable consideration described in this document, OFCCP and Sears enter this contract ("Conciliation Agreement" or "Agreement") and agree to all the terms stated below.

## **PART II. GENERAL TERMS AND CONDITIONS**

- A. In exchange for Sears' fulfillment of all obligations in Parts III and IV of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246 based on the violations described in more detail in Part III below. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part III if Sears violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
- B. Sears agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Sears will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.
- C. Sears understands that nothing in this Agreement relieves Sears of its obligation to fully comply with the requirements of E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 ("Section 503"), the Vietnam Era Veterans'

Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 ("VEVRAA"), their implementing regulations, and other applicable equal employment laws.

- D. Sears promises not to harass, intimidate, threaten, discriminate, or otherwise retaliate against any individual because the individual: benefits from this Agreement, files a complaint or participates in any investigation or proceeding under E.O. 11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 C.F.R. § 60-1.32(a).
- E. The parties understand the terms of this Agreement and enter into it voluntarily.
- F. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced herein. This Agreement contains all terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing, signed by all parties.
- G. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
- H. This Agreement becomes effective on the day it is signed by the Regional Director of OFCCP's Southeast Region (the "Effective Date") unless the Director of OFCCP indicates otherwise within 45 calendar days of the date the Regional Director signs the Agreement.
- I. This Agreement will expire sixty (60) calendar days after Sears submits the final progress report required in Part IV (D), below, unless OFCCP notifies Sears in writing prior to the expiration date that Sears has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines Sears has met all of its obligations under the Agreement.
- J. If Sears violates this Conciliation Agreement,
  - a. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:
    - i. If OFCCP believes that Sears violated any term of the Agreement while it was in effect, OFCCP will send Sears a written notice stating the alleged violations and summarizing any supporting evidence.
    - ii. Sears will have 15 calendar days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
    - iii. If Sears is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.

- iv. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- b. Sears may be subject to the sanctions set forth in Section 209 of the Executive Order, and/or other appropriate relief for violation of this Agreement.
- K. This Agreement does not constitute an admission by Sears of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that Sears violated any laws.
- L. Each party shall bear its own fees and expenses with respect to this matter.
- M. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with the creation of this settlement, will constitute evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this Agreement.

### **PART III. SPECIFIC VIOLATIONS AND REMEDIES**

#### **1. RACE DISCRIMINATION IN HIRING**

**VIOLATION:** During the period of May 1, 2010 through April 30, 2011, OFCCP finds that Sears' personnel activity data revealed that from a qualified common pool of (7)(E) Black applicants, Sears hired (7)(E) Black applicants in Sales positions. During the same period, from a qualified common pool of (7)(E) White applicants, Sears hired (7)(E) White applicants in Sales positions. This disproportionate hiring pattern is statistically significant at the level of (7)(E) standard deviations with a shortfall of 12 Black hires. Accordingly, OFCCP finds that Sears selection process resulted in (7)(E) qualified Black applicants not afforded equal opportunity to be considered for hire into Sales positions based on their race in violation of 41 CFR § 60-1.4(a)(1).

**REMEDY:** Sears will cease and desist all selection procedures that resulted in the discrimination found against qualified Black applicants for Sales positions, as required by 41 CFR § 60-1.4(a)(1).

In addition, Sears shall implement the following make-whole actions for the qualified Black applicants who were not hired into the Sales positions during the review period of May 1, 2010 through April 30, 2011 due to the disproportionate hiring pattern ("Affected Applicants").

- a) **Notification:** Within 75 calendar days of the Effective Date of this Agreement, Sears must notify the qualified Black applicants who were not hired ("Affected Applicants") and are listed in Attachment A of the terms of this Agreement by mailing via First Class Mail to the last known address to each Affected Applicant the: Notice to Affected Applicant (Attachment B, "Notice"), Information Verification & Employment Interest Form (Attachment C, "Interest Form"), the Release of Claims under Executive Order 11246 (Attachment D, "Release"), and a postage paid return envelope. Affected Applicants will have 30 calendar days from the date they receive the Notice to return the completed "Information Verification & Employment Interest Form" and "Release of Claims under the Executive Order" to contact Frank Picha, Affirmative Action Program Manager/Associate Relations, or if applicable, the Settlement Administrator. Sears or the Settlement Administrator will notify OFCCP of all letters returned as undeliverable within 90 calendar days of the effective date of this Agreement. OFCCP will then attempt to obtain and provide updated addresses to Sears or the Settlement Administrator within 30 calendar days of receiving the list from Sears or the Settlement Administrator. Sears or the Settlement Administrator will have an additional 60 calendar days from receipt of the list of Affected Applicants located by OFCCP with new addresses to re-mail the Notification Package via First Class Mail to notify individuals of their status as Affected Applicants (referred to as the "Second Notice") and to determine their interest in employment using Attachments B, C and D, as described above.
- b) **Eligibility:** All Affected Applicants listed on Attachment A who sign and return the Release and Interest Form to Sears or the Settlement Administrator within 30 calendar days of the receipt date on the envelope containing the first or second Notice, Interest Form and Release are Affected Applicants and will receive an equal share of the monetary settlement and, if indicating an interest in employment, will be considered for the Sales positions pursuant to this Agreement provided that they meet the minimum qualifications, at the time that they apply, and that they successfully complete the selection process. If an Affected Applicant does not return the fully executed Release and Interest Form to Sears or the Settlement Administrator within 30 calendar days of the receipt date of the envelope containing the first or second Notice, Interest Form, and Release, he or she will no longer be entitled to any relief pursuant to this Agreement.

Within 15 calendar days after the response deadline set out in the Second Notice to Affected Applicants, Sears or the Settlement Administrator will provide OFCCP with a list of the Affected Applicants (individuals who returned the Interest Form by the respective deadline). Within 15 calendar days after receiving the list, OFCCP will approve the final list of Affected Applicants or discuss with Sears or the Settlement Administrator any issues necessary to finalize the list, such as the inclusion or exclusion of certain individuals.

All Affected Applicants who appear on the final list of Affected Applicants approved by OFCCP are entitled to an equal share of the monetary settlement regardless of whether they are interested in employment with Sears.

- c) **Monetary Settlement:** Sears agrees to distribute a total of \$107,500, consisting of \$91,499.34 in back pay and \$16,000.66 in interest, less deductions required by law on the portion representing back pay only (such as federal, state and/ or local taxes and the Affected Applicants' share of FICA taxes), in equal shares among all those on the final Affected Applicants list. Sears will pay the Internal Revenue Service ("IRS") the employer's share of social security withholdings and will mail each Affected Applicant an IRS W-2 Form reporting the portion of the payment representing back pay and an IRS Form 1099 for the portion of the payment representing interest, if required. Sears or the Settlement Administrator will disburse the monetary settlement within 30 calendar days after OFCCP approves the final list of Affected Applicants.

Within 15 calendar days of Sears' receipt of a check to an Affected Applicant returned as undeliverable, Sears or the Settlement Administrator will notify OFCCP of this fact via e-mail sent to Compliance Officer (7)(C) (7)(C), (7)(C). OFCCP will have 15 calendar days to locate the Affected Applicant, and if OFCCP obtains an alternate address in the designated time period, Sears or the Settlement Administrator will re-mail the check within 15 calendar days of receiving an alternate or corrected address. Any check that remains uncashed 90 calendar days after the initial date the check was mailed to the Affected Applicant will be void. With respect to any checks that are returned as undeliverable after the second mailing, Sears or the Settlement Administrator will make a second distribution, in equal shares, to all Affected Applicants who cashed their first check, if the total amount of the undelivered checks would result in a payment of \$50.00 or more to each of the located Affected Applicants who cashed at least one of their checks. Sears or the Settlement Administrator will mail the second distribution, if required, to such Affected Applicants within 165 calendar days after the initial date the checks were mailed to all Affected Applicants.

- d) **Employment:** As sales positions become available within the 401-Sales 100% Commission and 402 – Sales Base Plus Commission job groups (or their successor job groups) at the Sears Biloxi, MS store ("Biloxi"), Sears will consider and make offers to Eligible Affected Applicants. Eligible Affected Applicants as used herein means applicants: (1) who timely returned an Interest Form indicating their desire to be considered for a sales position with Biloxi, (2) who are not former employees ineligible for rehire, (3) who are minimally qualified for the position, including: being available to work the days and times required, (4) who pass all post offer drug and background check screenings and are eligible to work in the United States; and (5) who successfully complete Sears' selection process for the position in question until 12 Affected Applicants are offered Sales positions, or until the list of Affected Applicants expressing an interest in employment is exhausted, whichever occurs first. The written job offer shall include the job title and starting hourly wage.

Eligible Affected Applicants will be considered in the order that Sears or the Settlement Administrator receives their Interest Forms. If Sears or the Settlement Administrator receives more than one response on any given day, those Eligible Affected Applicants will be considered for employment based on the date of their first original application to

Sears. Sears will attempt to satisfy its hiring obligations under this section within 1 year of the Effective Date of this Agreement. If Sears is not able to make 12 offers of employment to Eligible Affected Applicants or exhaust the list of Eligible Affected Applicants expressing an interest in employment within 1 year, OFCCP may extend the hiring provision only of this Agreement for up to 6 months or until Sears satisfies its employment obligations, whichever occurs first. Until the list of Eligible Affected Applicants is exhausted, the Eligible Affected Applicants will have priority over all other candidates for hire into the Sales positions at its Biloxi retail store.

The report-to-work date for Eligible Affected Applicants hired pursuant to this Agreement shall be no later than 14 calendar days after the date of the written conditional job offer. If any Eligible Affected Applicant does not report to work on the day designated by Sears without providing Sears on or before that day notice of good cause for the absence (e.g. personal illness or care for an immediate family member), or if good cause is provided and the Eligible Affected Applicant does not report to work within 5 calendar days of the original designated start date, Sears may withdraw the job offer and shall be under no obligation to hire such Eligible Affected Applicant under this Agreement. Documentation of all hiring decisions, including job offers made and reasons for rejection, will be available for review by OFCCP.

- e) **Selection Procedures:** Sears will cease and desist in the use of all selection procedures which resulted in the alleged discrimination of qualified Black applicants for Sales positions. Additionally, Sears will examine, monitor and modify its selection procedures as necessary to ensure that the selection criteria are applied uniformly and the hiring decisions for Sales positions are made in non-discriminatory manner, and to ensure that all stages of its revised selection procedures are in compliance with 41 CFR 60-1.4(a) and 41 CFR 60-3, the Uniform Guidelines on Employee Selection Procedures ("UGESP").

## **2. AFFIRMATIVE ACTION AND RECORD-KEEPING PROVISIONS**

- a. **VIOLATION:** Sears failed to preserve all personnel records for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurred later. Specifically, Sears failed to preserve all and interview records. 41 CFR §60-1.12(a).

**REMEDY:** Sears will preserve all personnel records for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurred later in accordance with 41 CFR §60-1.12(a).

## **Part IV. REPORTS REQUIRED**

Sears agrees to furnish OFCCP with three (3) progress reports. Sears must submit the documents and reports described below to the following address:

United States Department of Labor  
Office of Federal Contract Compliance Programs  
Katie Course, Assistant District Director—Jackson  
100 West Capitol Street-Suite 762  
Jackson, MS 39269

The first report will be due within 395 calendar days of the Effective Date of the Agreement and will include:

1. Documentation that Sears has contacted the Affected Applicants and provided the monetary relief as specified in the Remedy. The documentation shall include copies of all signed "Information Verification & Employment Interest Forms," "Release of Claims Under Executive Order 11246," cancelled checks, a listing of all Affected Applicants contacted, the amount disbursed to Eligible Affected Applicants, and the date of payments.
2. Documentation of all Eligible Affected Applicants who were offered and/or hired into Sales positions. The documentation will include all written job offers extended to Eligible Affected Applicants; a list of the names of hired Eligible Affected Applicants; a list of the names of Eligible Affected Applicants who were offered positions but declined the offer or did not appear for work in accordance with the provisions of this Agreement; and for each Eligible Affected Applicant offered a position, the date of hire or decline of position, the rate of pay, date of termination, if any, and reason.
3. Documentation of individuals who expressed interest in job offers who did not successfully complete the application process, including the names of these individuals, the date of their application, if any, and the reason Sears determined they did not successfully complete the application process. This includes individuals who did not receive job offers because all available positions were filled.

The second report will be due within 470 calendar days from the effective date of the agreement and will include:

1. Documentation of all Eligible Affected Applicants who were offered and/or hired into Sales positions. The documentation will include all written job offers extended to Eligible Affected Applicants; a list of the names of hired Eligible Affected Applicants; a list of the names of Eligible Affected Applicants who were offered positions but declined the offer or did not appear for work in accordance with the provisions of this Agreement; and for each Eligible Affected Applicant offered a position, the date of hire or decline of position, the rate of pay, date of termination, if any, and reason;
2. Documentation of individuals who expressed interest in job offers who did not successfully complete the application process, including the names of these individuals, the date of their application, if any, and the reason Sears determined they did not

successfully complete the application process. This includes individuals who did not receive job offers because all available positions were filled;

3. If Sears has not filled all of the positions specified in this Agreement by the Progress Report date, documentation of the reason this action is not complete.

The third report will be due within 603 calendar days from the effective date of the agreement and will include:

The documentation described above for Item 2 in the first progress report with respect to any additional Eligible Affected Applicants offered or hired into a position pursuant to this Agreement;

**Part V. SIGNATURES**

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Sears Roebuck and Co.

(6), (7)(C)

**Andrew M. Johnstone**  
Deputy General Counsel  
Sears Holdings Management Corporation,  
on behalf of Sears, Roebuck and Co.

Date: 9/30/16

(6), (7)(C)

**Samuel Maiden**  
Regional Director - Southeast  
Office of Federal Contract Compliance  
Programs

Date: 9/30/2016

(6), (7)(C)

**Katie Course**  
Assistant District Director - Jackson  
Office of Federal Contract Compliance  
Programs

Date: 9/30/2016

(6), (7)(C)

**Alvin Mitchell**  
District Director - Birmingham  
Office of Federal Contract Compliance  
Programs

Date: 9/30/2016

(6), (7)(C)

Compliance Officer - Jackson  
Office of Federal Contract Compliance  
Programs

Date: 9/30/2016



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**ATTACHMENT B**

**NOTICE TO AFFECTED APPLICANTS**

Date: \_\_\_\_\_

[Name]

[Address]

[City, State, Zip Code]

**RE: Notice that you may be eligible to receive payment under a Settlement between Sears and an agency of the U.S. Department of Labor**

Dear [Name]:

*We are writing to provide information about a legal settlement between the U.S. Department of Labor and Sears Bel Air Mall Unit # 01056 ("Sears") that may benefit you. This settlement involves claims of discrimination in hiring, and our records show that you may be one of the applicants covered by the settlement. If you take the steps described in this Notice by the deadline below, you may be eligible for a payment of back wages and/or an opportunity for employment.*

**ARE YOU AFFECTED?**

Blacks who applied for employment in certain Sales positions with Sears at its Mobile, Alabama establishment during the time period listed are covered by this settlement.

**WHAT IS THIS SETTLEMENT ABOUT?**

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) conducted an audit of Sears' hiring practices. OFCCP is the government agency responsible for enforcing the equal employment opportunity and affirmative action requirements that apply to federal contractors. OFCCP issued a Notice of Violations alleging that Sears discriminated against Black applicants for Sales positions during the period of May 1, 2010 through April 30, 2011. Sears denies these claims. Ultimately, Sears has decided to enter into an agreement with OFCCP for its convenience and to resolve its disagreement with OFCCP without further legal proceedings and the costs associated with these proceedings.

As a result, the company has agreed to pay money to Blacks who applied for certain Sales positions at this location during the dates above.

## **WHAT DOES THIS MEAN FOR YOU?**

- (1) Because you applied for a Sales position during the relevant time frame, **you may be eligible to receive a payment of at least \$\_\_\_\_\_** (before taxes). This payment represents your share of back wages and other payments Sears is making to settle this matter. The final amount you will receive will be reduced by deductions for items such as income tax withholding and Social Security contributions.
  
- (2) Sears will be making job offers for Sales positions at its Biloxi, MS retail establishment to some of the individuals receiving this notification. It is not guaranteed that you will be hired for a Sales position at the Biloxi, MS retail establishment. If you are interested in a job at the Biloxi, MS retail establishment, please express your interest on the enclosed Claim Form.
  
- (3) To get these benefits, you will need to release (give up) certain legal claims. A copy of the release for you to sign is included with this Notice.

## **WHAT IS YOUR NEXT STEP?**

You should read this Notice and the Claim Form carefully and any other information you received from the Department of Labor or the Sears-OFCCP Settlement Administrator. Please do not ignore this Notice or throw it away.

It is very important that you fill out and return the form in this envelope on time. Otherwise, you could miss out on receiving money or an opportunity for a job.

To be eligible for a payment and/or job offer, you must fully complete, sign, and return the enclosed claim form and release form within 30 calendar days of your receipt of this letter. There are instructions on the form about how to mail it in.

You may receive some or all of these benefits only if the information on your Claim Form confirms that you are one of the people covered by the settlement. After you complete and return these documents, a final decision will be made about your eligibility.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE SEARS-OFCCP SETTLEMENT CLAIMS ADMINISTRATOR WITHIN 30 CALENDAR DAYS OF YOUR RECEIPT OF THIS LETTER, YOU WILL FORFEIT ANY RIGHT TO A MONETARY PAYMENT OR TO OTHERWISE PARTICIPATE IN THIS SETTLEMENT.**

## **HOW CAN YOU GET MORE INFORMATION?**

If you have any questions, you may contact the Sears-OFCCP Settlement Administrator at Phone: xxx-xxx-xxxx or email xxxx@xx.com You may also contact Compliance Officer [REDACTED] (7)(C) at 601-965-4668.



## Claim Form – Affected Applicants

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**PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS CLAIM FORM.**

**INSTRUCTIONS FOR FILING A CLAIM TO BE CONSIDERED FOR MONEY (BACK WAGES) AND/OR A JOB OFFER FROM THE SETTLEMENT**

**DEADLINE TO RESPOND IS 30 CALENDAR DAYS OF YOUR RECEIPT OF THIS LETTER**

If you complete this Claim Form, you may be eligible for a money payment from the settlement and you can express interest in a job offer at the Biloxi, MS retail establishment. You can receive a money payment even if you do not express interest in a job.

To receive an award (such as money or a job offer), you must complete and return this Claim Form and Release Form on or before the above referenced deadline to:

Sears-OFCCP Settlement Administrator  
[Contact information To Be Determined]

If you do not submit a properly completed Claim Form and Release Form on or before the deadline, then your claim will not be on time and you will not receive any money from this settlement and you cannot be considered for a job offer.

Enclosed is a stamped, pre-addressed envelope you can use. \*\*\*

**This Claim Form will only be used for the following purposes:**

- (1) To confirm important information we need in order to make sure you are eligible to receive money under this settlement and process your payment, and**
- (2) To allow you to express interest in the jobs being offered as a result of the settlement.**

**Step 1: Please confirm the following contact information to process your payment (print legibly).**

Name: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

I confirm that the address on the cover letter is correct.

The address on the cover letter is not correct. My correct address is:

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please verify [or provide] the last four digits of your social security number \_\_\_\_\_**  
*The last four digits of your Social Security Number are required in order to process your payment for tax purposes. Your Social Security Number will not be used for any other purpose.*

**Do you identify your race as Black or African-American? (Circle one.)**      Yes    No

**Notify us at the address below if your address changes within the next three months, or contact us if you have any questions about this claim form, the notice, or the settlement.**

**Compliance Officer (7)(C) \_\_\_\_\_**  
**U.S. Department of Labor, Office of Federal Contract Compliance Programs**  
**100 W. Capitol Street, Suite 762, Jackson, Mississippi 39269**  
**Phone: 601-965-4668 or Email: (7)(C) \_\_\_\_\_@dol.gov**

**Step 2: Inform us if you are interested in a position:**

- Yes, I am still interested in a Sales position with the Sears Biloxi, MS retail establishment located at 2600 Beach Boulevard, Suite 67, Biloxi, MS 39531.
- No, I am not currently interested in a Sales position with the Sears Biloxi, MS retail establishment located at 2600 Beach Boulevard, Suite 67, Biloxi, MS 39531

**Step 3: Sign and return along with the Release Form**

I certify the above as true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

ALL sections of this form must be completed or your form will be disregarded and you will not be eligible to participate in the settlement between OFCCP and Sears Mobile.

ATTACHMENT D  
RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246

*PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS RELEASE.  
YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY FROM THE SETTLEMENT*

This Release of Claims under Executive Order 11246 ("Release") is a legal document. This document states that in return [Sears, Roebuck and Co.] "Sears Mobile" or "Contractor" paying you money, you agree that you will not file any lawsuit against Contractor for allegedly violating Executive Order 11246 in connection with its selection procedures for applicants for Sales positions. It also says that Contractor does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

Blacks who applied for employment in Sales positions - In consideration of the payment of at least \$XXX (less deductions required by law) by Sears Mobile, which I agree is acceptable, and also in consideration of other relief provided by the agreement between Sears Mobile and the Office of Federal Contract Compliance Programs ("OFCCP"),

I hereby waive, release and forever discharge Sears Mobile its predecessors, successors, related entities, parent companies, subsidiaries, affiliates and organizations, and its directors, officers, employees, agents, successors and assigns, in their official and individual capacities of and from any and all actions, causes of action, damages, liabilities, and claims, arising out of or actionable under Executive Order 11246, as amended, which I or my representatives, heirs, executors, administrators or assigns, have or may have which relates in any way to my non-selection for employment in a Sales position at Sears Mobile at any time from May 1, 2010 through the date of this Release of Claims Form.

I understand that Sears Mobile denies that it treated me unlawfully or unfairly in any way and that Sears Mobile entered into settlement with OFCCP in the spirit of cooperation and to bring closure to Sears Mobile's disagreement with OFCCP. I further agree that the payment of the above sum is not to be construed as an admission of wrongdoing of any kind by Sears Mobile.

I affirm that the only consideration for signing this Release of Claims form is the terms set forth above and that no other promises or assurances of any kind have been made to me by Sears Mobile or OFCCP, and/or any other entity or person as an inducement for me to sign the Release of Claims Form. I acknowledge that I fully understand the terms of this Release of Claims Form as it has been written, as well as the legal and binding effect of this Release of Claims Form, and that if I am concerned about how the process described in this Release of Claims Form or the waiver of claims provision described above applies to me, I may contact my own advisors for appropriate legal advice.

I declare that I have carefully read this Release of Claims Form and that I fully understand the extent and importance of its provisions. I affirm that I am fully competent to execute this Release of Claims Form, that I have had a full opportunity to consider and understand its terms and to consult with my own

advisors, and that I have decided to voluntarily, and of my own free will, sign this Release of Claims Form.

6. I understand that if I do not sign this Release of Claims Form, and the Claim Form AND return both of these completed documents to the Sears-OFCCP Settlement Claims Administrator, then I will not receive any financial or other related relief provided in the agreement between Sears, Roebuck and Co. and OFCCP.

IN WITNESS WHEREOF, I have executed this release knowingly and voluntarily.

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Signature