

CONCILIATION AGREEMENT

Between

THE U. S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
And

THE PROCACCIANTI GROUP
1140 RESERVOIR AVENUE, CRANSTON, RI 02920;

TPG HOTELS AND RESORTS
1140 RESERVOIR AVENUE, CRANSTON, RI 02920;

PMO III LLC
660 MARYVILLE CENTRE, ST. LOUIS, MO 63141;

PMO III BEVERAGE SERVICES, LLC
1140 RESERVOIR AVENUE, CRANSTON RI 02920
All doing business as,

ST. LOUIS MARRIOTT WEST or MARRIOTT ST. LOUIS WEST
660 MARYVILLE CENTRE, ST. LOUIS, MO 63141

PART I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs ("OFCCP") evaluated an establishment of The Procaccianti Group, 1140 Reservoir Avenue, Cranston, RI 02920 and TPG Hotels and Resorts, 1140 Reservoir Avenue, Cranston, RI 02920 and PMO III LLC 660 Maryville Centre, St. Louis, MO 63141 and PMO III Beverage Services LLC, 1140 Reservoir Avenue, Cranston, RI 02920 all dba St. Louis Marriott West or Marriott St. Louis West 660 Maryville Center Drive, St. Louis, MO 63141 (hereinafter TPG Hotels). OFCCP found that TPG Hotels was not in compliance with the Executive Order 11246, as amended ("E.O. 11246"), and its implementing regulations at 41 C.F.R. Section(s) 60-1, 60-2, and 60-3. OFCCP notified TPG Hotels of the specific violations found and the corrective actions required in a Notice of Violations issued on November 2, 2017. 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 TPG Hotels enter into this contract ("Conciliation Agreement" or "Agreement") and agree to all the terms stated below.

PART II. GENERAL TERMS AND CONDITIONS

1. In exchange for TPG Hotels' 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 TPG Hotels violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.

2. Since TPG Hotels no longer owns or operates the Marriott West Hotel establishment as of February 23, 2018, TPG Hotels agrees that OFCCP may review its compliance with this Agreement at 1140 Reservoir Avenue, Cranston, RI. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. TPG Hotels will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.
3. TPG Hotels understands that nothing in this Agreement relieves TPG Hotels of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws.
4. TPG Hotels 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).
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. 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.
7. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
8. This Agreement becomes effective on the day it is signed by the Regional Director of the Midwest Region (the "Effective Date") unless the Director of OFCCP indicates otherwise within 45 calendar days of the date the Regional Director signs the Agreement.
9. In computing any time period specified in this Agreement, every calendar day shall be counted unless otherwise specified herein.
10. This Agreement will expire sixty (60) days after TPG Hotels submits the final progress report required in Part III, below, unless OFCCP notifies TPG Hotels in writing prior to the expiration date that TPG Hotels has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines TPG Hotels has met all of its obligations under the Agreement.
11. If TPG Hotels violates this Conciliation Agreement,

A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:

1) If OFCCP believes that TPG Hotels violated any term of the Agreement while it was in effect, OFCCP will send TPG Hotels a written notice stating the alleged violations and summarizing any supporting evidence.

2) TPG Hotels will have 15 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.

3) If TPG Hotels 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.

4) OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.

12. This Agreement does not constitute an admission by TPG Hotels of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that TPG Hotels violated any laws.

PART III. SPECIFIC VIOLATIONS AND REMEDIES

1. HIRING DISCRIMINATION

A. STATEMENT OF VIOLATION

OFCCP found that TPG Hotels is not in compliance with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 § 202 and 41 C.F.R. § 60-1.4(a)(1). OFCCP's analysis of TPG Hotels' hiring process and selection procedures during the period of April 1, 2014 through March 31, 2015 ("review period") revealed discrimination against Black applicants for Housekeeping positions based on race. OFCCP also found that there was a statistically significant disparity in the hiring of Housekeepers based on race.

Specifically, OFCCP's analysis of the applicant and hiring data demonstrates that TPG Hotels' selection process had an adverse impact on the hiring of Black applicants for Housekeeping positions. Of (b) (7)(E) Black applicants, (b) (7)(E) or (b) (7)(E) were hired, whereas of (b) (7)(E) Asian applicants, (b) (7)(E) or (b) (7)(E) were hired to the Housekeeping positions. This resulted in a hiring shortfall of eight (8) Blacks and a disparity that was statistically significant at (b) (7)(E) standard deviations.

TPG Hotels failed to maintain complete documentation or information on applicants at each step in the employment process. Additionally, OFCCP found that TPG Hotels treated Asians differently than Black applicants in that TPG Hotels did not consistently apply hiring criteria to both races.

B. STATEMENT OF VIOLATION

OFCCP found that TPG Hotels is not in compliance with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 § 202 and 41 C.F.R. §60-1.4(a)(1). OFCCP's analysis of TPG Hotels' hiring process and selection procedures during the period of April 1, 2014 through March 31, 2015 ("review period") revealed discrimination against Black applicants for Banquet Server positions based on race. OFCCP also found that there was a statistically significant disparity in the hiring of Banquet Servers based on race.

Specifically, OFCCP's analysis of the applicant and hiring data demonstrates that TPG Hotels' selection process had an adverse impact on the hiring of Black applicants for Banquet Server positions. Of [REDACTED] Black applicants, (b) (7)(E) or (b) (7)(E) were hired, whereas of [REDACTED] White applicants, [REDACTED] or (b) (7)(E) were hired to the Banquet Server positions. This resulted in a hiring shortfall of five (5) Blacks and a disparity that was statistically significant at [REDACTED] standard deviations.

TPG Hotels failed to maintain complete documentation or information on applicants at each step in the employment process. Additionally, OFCCP found that TPG Hotels treated Whites differently than Black applicants in that TPG Hotels did not consistently apply hiring criteria to both races.

B. REMEDY FOR AFFECTED CLASS

TPG Hotels agrees to: (a) make all reasonable efforts to locate all 168 Class Members and provide all located Class Members with a make whole remedy, including back pay with interest.

Notice. On or before March 30, 2018, TPG Hotels will notify the Black Class Members listed in Attachment A (the "Class Members") of the terms of this Agreement by First Class Mail. TPG Hotels will use the last known address on file for each Class Member. TPG Hotels will include the Notice to Affected Class (Attachment B, hereinafter "Notice"), Information Verification Form (Attachment C, hereinafter "Interest Form"), Release of Claims Form, (Attachment D, hereinafter "Release"), and postage paid return envelope.

Each Class Member (or her/his legal representative in the event she/he is deceased) will be instructed to respond by April 30, 2018. TPG Hotels will provide OFCCP with a list of the Class Members who have not yet responded to the Notice and/or have not returned the signed the Interest Form along with documentation received from the postal service such as undeliverable mail and/or forwarding addresses. The

Class Member list TPG Hotels provides to OFCCP will be in Microsoft Excel format and list all Class Members by First name, Middle Initial, Last Name, Address, City Zip Code, Phone Number, located/not located, deliverable/undeliverable, forwarded address (if applicable), and Social Security Number of record, with each item in a separate column. This report will be sent to OFCCP, attention "Compliance Officer Brian Bunting," on or before May 15, 2018.

OFCCP will then attempt to obtain and provide updated addresses to TPG Hotels on or before May 31, 2018, or will advise TPG Hotels by that date that alternative addresses are not available. On or before June 15, 2018, TPG Hotels will mail, by First Class Mail, a second Notice, Release, and postage-paid return envelope to all Class Members for whom updated addresses were provided by the OFCCP.

If a Class Member responds to either the first or second mailing and submits an incomplete response (including, but not limited to, one where a Social Security number was not provided) TPG Hotels must notify OFCCP by the following Monday of each week after receiving the incomplete response, and OFCCP will follow up with that Class Member to attempt to obtain the missing information. TPG Hotels will provide this notification to OFCCP by emailing Compliance Officer Brian Bunting at [\(b\) \(6\), \(b\) \(7\)\(C\)@dol.gov](mailto:(b) (6), (b) (7)(C)@dol.gov). In that email, TPG Hotels will specify the deficiencies and attach an electronic copy of the incomplete paperwork.

2. **Eligibility.** The total number of Class Members to receive payment shall consist of those individuals who responded to the first or second mailing and returned signed copies of the unaltered Release postmarked on or before July 16, 2018 and will be referred to in this Agreement as an "Eligible Class Member." Any Class Members listed on Attachment A, who do not respond by July 16, 2018, and/or do not complete the Interest Form and Release, will not receive any portion of the Settlement Fund.

On or before July 31, 2018, TPG Hotels will provide OFCCP with a list of the Eligible Class Members (individuals who returned the unaltered Interest Form and Release by the postmark deadline). On or before August 15, 2018, OFCCP will approve the final list of Eligible Class Members. All Class Members who appear on the final list of Eligible Class Members approved by OFCCP are entitled to an equal share of the Settlement Fund described below.

3. **Monetary Settlement:** In settlement of all claims for back pay, interest and other monetary relief to Eligible Class Members, TPG Hotels agrees to pay \$100,000.00 (\$91,200 in back pay and \$8,800 in interest), less legal payroll deductions required by law from back pay only (such as federal, state and/or local taxes and the Eligible Class Members' share of FICA taxes), in equal shares among all Eligible Class Members on the final approved list. This amount of \$100,000.00 shall be referred to hereafter as the "Settlement Fund." The Settlement Fund is a negotiated amount that represents back pay and interest less interim earnings and takes into

account the tenure of those persons hired into the Housekeeping and Banquet Server positions during the review period.

TPG Hotels will pay the Internal Revenue Service ("IRS") the employer's share of social security withholdings and will mail each Eligible Class Member 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. These IRS forms will be mailed at the end of the year. TPG Hotels will disburse the Settlement Fund within 30 calendar days after OFCCP approves the final list of Eligible Class Members.

For purposes of complying with this Agreement, on or before March 15, 2018, TPG Hotels will establish and deposit the sum of \$100,000.00 into a federally-insured interest-bearing account at the prevailing interest rate, for purposes of complying with this Agreement. TPG Hotels will notify OFCCP on or before March 20, 2018 that these actions are complete. TPG Hotels will identify a person who can be contacted in order to obtain the account balance and interest information.

The interest that accrues on the total Settlement Fund will be included in the distribution to the Eligible Class Members. The interest earned on the Settlement Fund following the Effective Date of this Agreement shall be distributed to those Eligible Class Members.

TPG Hotels will distribute the Settlement Fund (including any accrued interest) equally among the Eligible Class Members on the approved list. On or before August 31, 2018, TPG Hotels will send a check via certified mail to each Eligible Class Member representing each such person's pro rata share of the Settlement Fund. After mailing the checks, TPG Hotels will provide OFCCP with a Microsoft Excel report containing the certified mail tracking number for each Eligible Class Member or indicate if the check was direct deposited.

For any checks mailed by TPG Hotels which are returned as undeliverable, TPG Hotels will notify OFCCP of this fact within 7 calendar days, via e-mail sent to CO (b) (6), (b) (7)(C) @dol.gov. OFCCP will have 15 calendar days to attempt to locate updated address information for the Eligible Class Member whose check was returned and, if OFCCP obtains an alternate address in the designated time period, OFCCP will provide the updated address information to TPG Hotels and TPG Hotels will arrange for the check to be re-mailed, by certified mail, within 15 calendar days of receiving the alternate or corrected address. Any checks that remain uncashed as of November 30, 2018 shall be void. With respect to the uncashed funds, TPG Hotels will arrange for a second distribution in equal shares to all Eligible Class Members who cashed their check, if the total amount of the undelivered checks would result in a payment of \$20.00 or more to each of those Eligible Class Members. The second distribution of uncashed funds will be mailed no later than December 31, 2018 (if there is a need). If the amount remaining after the first distribution would result in a payment of less than \$20.00 to each Eligible Class Member or if there is any

remainder after the second distribution, TPG Hotels agrees to use the remainder to conduct internal EEO training. The Settlement Fund account will close on January 31, 2019, and any balance remaining in the Settlement Fund shall revert to TPG Hotels to be used in accordance with this paragraph.

PART IV: REPORTING REQUIREMENTS

In light of information received from TPG Hotels that the facility under review is undergoing foreclosure proceedings by the bank holding the note, who will hire a new management company to oversee operations, there will be no requirement for shortfall hires or progress reports regarding changes made to TPG Hotels' hiring process. However, TPG Hotels does agree to submit reports regarding the disbursement of funds to Affected Class Members in accordance with Part III above.

PART V: SIGNATURES

The person signing the Conciliation Agreement on behalf of TPG Hotels personally warrants she is fully authorized to do so, that TPG Hotels has entered into this Conciliation Agreement voluntarily and with full knowledge of the effect thereof, and that execution of this Agreement is fully binding on TPG Hotels. This Conciliation Agreement is hereby executed by and between the Office of Federal Contract
TPG Hotels and Resorts.

(b) (6), (b) (7)(C)

ELIZABETH PROCACCIANTI
Chief Operations Officer
Procaccianti Companies and TPG
Hotels and Resorts
Cranston, Rhode Island

DATE: 2-20-18

(b) (6), (b) (7)(C)

BRADLEY A. ANDERSON
Regional Director
Midwest Region, OFCCP

DATE: 2/21/2018

(b) (6), (b) (7)(C)

KAREN JOHNSON-ROBINSON
Assistant District Director
St. Louis Area Office
Midwest Region, OFCCP

DATE: 02/21/18

(b) (6), (b) (7)(C)

MAXINE L. MANUS
District Director
Kansas City District Office
Midwest Region, OFCCP

DATE: 2/21/18

(b) (6), (b) (7)(C)

Compliance Officer
St. Louis Area Office
Midwest Region, OFCCP

DATE: 02/21/18

**Attachment A
Class Member Listing**

	Housekeeping		Banquet Server
1	(b) (6), (b) (7)(C)	1	(b) (6), (b) (7)(C)
2		2	
3		3	
4		4	
5		5	
6		6	
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Attachment A
Class Member Listing

	Housekeeping	Banquet Server
43	(b) (6), (b) (7)(C)	
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**Attachment A
Class Member Listing**

	Housekeeping	Banquet Server
85	(b) (6), (b) (7)(C)	
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Attachment A
Class Member Listing

	Housekeeping	Banquet Server
127	(b) (6), (b) (7)(C)	
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Attachment B – Notice to Class Members

You may be eligible to get money because of a legal settlement between TPG Hotels and Resorts dba Marriott St. Louis West and the U.S. Department of Labor

We are writing to provide information about a legal settlement between the U.S. Department of Labor and TPG Hotels and Resorts dba Marriott St. Louis West (hereafter TPG Hotels) 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.

ARE YOU AFFECTED?

African Americans who applied and were not hired for Housekeeping and Banquet Server positions at the Marriott St. Louis West Hotel in St. Louis, Missouri, between April 1, 2014 and March 31, 2015 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 a review of TPG Hotels' hiring practices during April 1, 2014 through March 31, 2015. 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 Violation alleging that TPG Hotels discriminated against African Americans in hiring for Housekeeping and Banquet Server positions from April 1, 2014 through March 31, 2015. TPG Hotels denies those claims. Ultimately, although TPG Hotels disagreed with OFCCP's findings, TPG Hotels has agreed to resolve the claims through a Conciliation Agreement. A Conciliation Agreement is a legal document that explains the terms of an agreement to settle a Notice of Violation issued by OFCCP.

WHAT DOES THIS MEAN FOR YOU?

Because you applied for a Housekeeping or Banquet Server position during the relevant time frame, and were not hired, this settlement may provide you with some specific benefits:

- (1) **You may be eligible to receive a payment of at least \$595.00 (before taxes).** This payment represents your share of back wages and other payments TPG Hotels is making to settle the lawsuit. The final amount you will receive will be reduced by deductions for items such as income tax withholding and Social Security contributions. It may take several months from the date of this Notice before you receive any monetary payment.

To get these benefits, you will need to release (give up) certain legal claims, and sign the enclosed Interest and Release forms.

WHAT IS YOUR NEXT STEP?

Attachment B – Notice to Class Members

You should read this Notice, the Interest and Release forms, and any other information you received from the U.S. Department of Labor or the Settlement Administrator, XXX.

Please do not ignore these documents or throw them away. Otherwise, you could miss an opportunity to receive money.

To be eligible for a payment, you must complete, sign, and return both of the following enclosed documents, (1) Interest Form and (2) Release of Claims Form by [July 16, 2018] to: _____

*Settlement Administrator
Dba Marriott St. Louis West
XXX
Address
Address*

The documents must be received by [insert actual date].

You may receive some or all of these benefits only if these forms confirm that you are one of the individuals covered by the settlement. After correct completion and submission of these documents, a final decision will be made about your eligibility.

You must follow all of the instructions in this Notice and return all of the documents by the deadline of [insert date] to receive any money provided to you by the settlement. If you fail to return both of the required documents by the deadline or if your documents do not verify your eligibility you will not be eligible to receive any money or any other relief provided to you by the settlement.

HOW CAN YOU GET MORE INFORMATION?

If you have any questions, you may contact (b) (6), (b) (7)(C) Compliance Officer at (b) (6), (b) (7)(C) or via e-mail at (b) (6), (b) (7)(C)@dol.gov. You can also visit the U.S. Department of Labor website to learn more about this case at www.dol.gov/ofccp/cml.

Attachment C – Interest Form

Interest Form – Affected Applicants

PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS INTEREST FORM.

INSTRUCTIONS FOR FILING AN INTEREST TO BE CONSIDERED FOR MONEY (BACK WAGES) FROM THE SETTLEMENT

DEADLINE TO RESPOND IS JULY 16, 2018

If you complete this Interest Form, you may be eligible for a money payment from the settlement. To receive an award such as money, you must complete and return this Interest Form and the enclosed Release Form postmarked or hand-delivered on or before *[July 16, 2018]*, to

Settlement Administrator
Dbm Marriott St. Louis West
Address
Address

If you do not submit a properly completed Interest Form and Release Form on or before *[July 16, 2018]*, then your interest will not be on time and you will not receive any money from this settlement.

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

Attachment C – Interest Form

This Interest 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.

Step 1: Please confirm [or provide] 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 provide your social security number _____

Your Social Security Number is required in order to process your payment for tax purposes. Your Social Security Number will not be used for any other purpose.

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.

*Settlement Administrator
Dba Marriott St. Louis West
Address
Address
1-XXX-XXX-XXXX*

Step 2: Sign and return along with the Release Form

I certify the above as true and correct.

Signature

Date

Attachment D Release of Claims

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 for TPG Hotels and Resorts dba TPG Hotels St. Louis West (hereafter TPG Hotels) providing you with money, you agree that you will not file any lawsuit against TPG Hotels for allegedly violating Executive Order 11246 in connection with its selection procedures for applicants for Housekeeping and Banquet Server positions. It also says that TPG Hotels 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.

In consideration of the payment of at least \$595.00 (less deduction required by law), which you agree is acceptable, you agree to the following:

I.

I hereby waive, release and forever discharge TPG Hotels, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and their shareholders, owners, directors, officers, employees, agents, successors, and assigns, 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 relate in any way to its selection procedures for applicants for Housekeeping and Banquet Server Positions during the period of April 1, 2014 through March 31, 2015.

II.

I understand that TPG Hotels denies that it treated me unlawfully or unfairly in any way and that TPG Hotels entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") and agreed to make the payment described above to resolve without further legal proceedings all issues related to OFCCP's compliance reviews of TPG Hotels initiated on September 15, 2015. I further agree that the payment of the aforesaid sum by TPG Hotels to me is not to be construed as an admission of any liability by TPG Hotels.

Attachment D Release of Claims

III.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

I understand that if I do not sign this Release and return it to Settlement Administrator, [Insert Settlement Administrator Name] such that it is received by [July 16, 2018], I will not be entitled to receive any *payment (less deductions required by law)*.

IN WITNESS WHEREOF, I have signed this document of my own free will.

Signature: _____ Date: _____

Printed Name: _____