

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



In the Matter of
Manganaro Midatlantic LLC

SETTLEMENT AGREEMENT

The Attorney General for the District of Columbia, on behalf of the District of Columbia (“District”), and Manganaro Midatlantic LLC (“Manganaro”) (collectively, the “Parties”) hereby enter into this Settlement Agreement, and agree as follows:

I. THE PARTIES

1. The District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the seat of the government of the United States. The Attorney General for the District of Columbia is the chief legal officer for the District of Columbia. Pursuant to D.C. Code § 32-1306, the Attorney General for the District of Columbia is authorized to bring civil actions seeking back wages, liquidated damages, civil penalties, costs, attorneys’ fees, and equitable relief for violations of the District’s Workplace Fraud Act (“WFA”), D.C. Code § 32-1331.01, *et seq.*

2. Manganaro Midatlantic LLC is a Maryland corporation that provides subcontracting services relating to drywall installation in the Midatlantic region of the United States, including in the District of Columbia.

3. The District alleges that from 2018 through the present, Manganaro completed construction projects in the District of Columbia by entering into agreements with subcontractors, who in turn supplied Manganaro with hundreds of construction workers (hereinafter, “subcontracted workers”). The District’s allegations, as contained in Paragraphs 3-6 herein and pertaining to the time period 2018 through the Effective Date, are referred to as the “Covered Conduct.”

4. The District alleges that subcontracted workers were often misclassified as independent contractors when they should have been classified as employees in violation of the WFA.

5. The District alleges that this misclassification allowed Manganaro and its subcontractors to unlawfully reduce their labor costs.

6. The District alleges that Manganaro exercised extensive supervision and control over subcontracted workers and as a result, is liable for subcontractors’ misclassification violations of the WFA as a joint employer. In the alternative, the District alleges that Manganaro is strictly liable for subcontractors’ misclassification violations of the WFA pursuant to D.C. Code § 32-1303(5).

7. Manganaro denies the allegations in Paragraphs 3-6 and denies that its practices violated District law.

8. To avoid delay, uncertainty, inconvenience, and the expense of any protracted litigation, the Parties have reached a full and final Settlement Agreement as set forth below.

9. The “Effective Date” of this agreement shall be the last date upon which any party executes the Settlement Agreement.

II. PAYMENT TERMS

10. Manganaro agrees to pay, in the manner set forth below, a total of five hundred seventy-five thousand dollars (\$575,000) (the “Total Settlement Amount”). The Total Settlement Amount consists of (a) a “Worker Share” equaling three hundred forty-five thousand dollars (\$345,000) to be paid to affected workers and (b) a “Penalty Share” equaling two hundred thirty thousand dollars (\$230,000) to be paid to the District. The Total Settlement Amount shall be paid out in the following manner:

a. **Worker Share.** Manganaro shall pay the Worker Share as follows:

- i. Within sixty (60) days after the Effective Date of this Settlement Agreement, Manganaro shall make a payment to the District in the amount of three hundred forty-five thousand dollars (\$345,000).
- ii. The Worker Share payment may be used by the District for any lawful purpose, including but not limited to payment in restitution to current and former workers who performed work for Manganaro or payment applied to the District’s restitution fund; defrayal of the costs of the inquiry leading hereto; defrayal of the costs of administration or distribution; payment to the litigation support fund; or for other uses permitted by District law, at the sole discretion of the Attorney General for the District of Columbia. Manganaro agrees to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the District’s administration of the payment under this paragraph.

b. **Penalty Share.** Manganaro shall pay the Penalty Share as follows:

- i. Within sixty (60) days after the Effective Date of this Settlement Agreement, Manganaro shall make a payment to the District in the amount of two hundred thirty thousand dollars (\$230,000).
- ii. Payments made pursuant to the Penalty Share may be used for any lawful purpose, including but not limited to deposit to the District’s litigation support fund; defrayal of the costs of the inquiry leading hereto; defrayal of the costs of administration or distribution; or for other uses permitted by District law, at the sole discretion of the Attorney General for the District of Columbia. Manganaro agrees to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the District’s administration of the payment under this paragraph.

- c. **Delivery.** Payments made by Manganaro pursuant to this paragraph shall be by ACH transfer to an account designated by the District in a notice provided to the individual designated in Paragraph 22 within five (5) business days following the Effective Date.

III. INJUNCTIVE TERMS

11. **Certified Payroll.** Manganaro will require all subcontractors retained for projects in the District to submit weekly certified payroll reports to Manganaro that certify that the subcontractor is in compliance with the District's WFA. Manganaro shall utilize a certified payroll form that requires the subcontractor to certify (a) identifying information pertaining to the subcontractor and project, (b) the names of their workers, (c) their classification as employees or independent contractors, (d) their hours worked each day, (e) their rate of pay, (f) paid sick leave accrued, (g) their gross earnings, (h) tax deductions, (i) net earnings, and (j) a sworn certification that the subcontractor is in compliance with the District's WFA. Certified payroll records may be modeled on U.S. Department of Labor Form WH-347. Manganaro shall maintain the above-referenced certified payroll practice and records for a period of at least four (4) years.

12. **Auditing.** For each subcontractor retained by Manganaro to perform work on a construction project in the District, Manganaro will also complete and include in the Annual Report referenced below at least one (1) random audit for the subcontractor for each project on which the subcontractor is retained during the time period in which the subcontractor is completing the work. The audit shall compare the subcontractor's certified payroll records with a randomized sample of the subcontractor's payment and/or pay stub records to verify the subcontractor's compliance with the District's WFA.

13. **Reporting.** Manganaro shall submit an Annual Report to the District for calendar years 2023 through 2026 that (i) identifies all subcontractors who performed work for Manganaro in the District during the calendar year and a signed certification from each identified subcontractor

attesting to compliance with the District's WFA and (ii) includes summaries of all audits performed pursuant to Paragraph 12. Manganaro shall submit each Annual Report containing this information to the District by February 28 of the following year.

14. **Corrective Action.** If Manganaro becomes aware, through an audit or other source, that a subcontractor is in violation of the District's WFA, Manganaro shall take actions within thirty (30) days reasonably calculated to ensure the subcontractor comes into compliance and pays any applicable restitution to any affected worker to remedy the violation. If such subcontractor fails to come into compliance and pay any applicable restitution to any affected worker to remedy the violation, then Manganaro shall promptly give notice to the District.

15. **Notice of Settlement to Manganaro Management.** Manganaro shall deliver a copy of this Settlement Agreement to each of its current and future principals, officers, directors, and managers who have managerial authority with respect to the subject matter of this Settlement Agreement.

IV. RELEASE

16. Upon payment by Manganaro of the Total Settlement Amount, the District releases Manganaro and any higher-level contractor that could be found liable pursuant to the District's WFA (with respect only to work done for the higher-level contractor by Manganaro) from any and all claims that the Attorney General could have civilly brought under the WFA, arising out of the Covered Conduct. The foregoing release shall not affect the District's right to take appropriate enforcement action against Manganaro with respect to the payment terms and injunctive terms set out in Sections II and III of this Settlement Agreement, nor shall it, or anything in this agreement, affect the District's right to bring any enforcement action for conduct that is not specifically

released with respect to the District's allegations in this matter or for any conduct that post-dates the Effective Date of the Settlement Agreement.

V. ADDITIONAL TERMS

17. Enforcement.

- a. If the District has a good-faith belief that Manganaro has violated the payment or injunctive terms of this Settlement Agreement, the District shall provide written notice (the "Notice") to Manganaro, through counsel, by email at least thirty (30) days prior to taking any enforcement action against Manganaro with respect to the Settlement Agreement. The Notice shall describe the alleged violation in sufficient detail to allow Manganaro to investigate and, if necessary, correct the alleged violation.
- b. To the extent the alleged violation involves a subcontractor of Manganaro, the District will send a copy of the Notice to the relevant subcontractor. Following the issuance of the Notice, the Parties may attempt to resolve the dispute without enforcement action, provided that nothing in this paragraph prevents the District from taking enforcement action with respect to the Settlement Agreement or new conduct in violation of the Settlement Agreement following expiration of the fourteen-day period.

18. **No concession that claims were not well-founded.** The District's agreement to enter into this Settlement Agreement does not constitute, and shall not be construed as, a concession that its allegations were not well-founded.

19. **No admission of wrongdoing or liability.** Manganaro's agreement to enter into this Settlement Agreement does not constitute, and shall not be construed as, an admission of any wrongdoing or liability, nor as a concession that the District's allegations are well-founded.

20. **Full and complete terms.** This Settlement Agreement represents the full and complete terms of the settlement entered into by the Parties. In any action undertaken by the Parties, neither prior versions of this Settlement Agreement nor prior versions of any of its terms may be introduced for any purpose whatsoever.

21. This Settlement Agreement shall be considered effective and fully executed on the Effective Date. This Settlement Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature. Copies of signature pages transmitted electronically shall have the same effect as originals of those signature pages.

22. All notices sent pursuant to this Settlement Agreement shall be provided to the following addresses via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

James Graham Lake
Chief, Workers' Rights and Antifraud Section
Office of the Attorney General
400 6th Street, N.W., 10th Floor
Washington, D.C. 20001
Graham.Lake@dc.gov

Counsel for the District of Columbia

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Jackson Lewis P.C.
10701 Parkridge Blvd.
Suite 300
Reston, VA 20191
Joseph.Schuler@jacksonlewis.com

Counsel for Manganaro Midatlantic LLC

23. If any clause, provision, or section of this Settlement Agreement shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Settlement Agreement and this Settlement Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

24. Nothing in this Settlement Agreement shall be construed as relieving Manganaro of the obligation to comply with all state and federal laws, regulations, or rules, nor shall any of the provisions of this Settlement Agreement be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

25. Nothing in this Settlement Agreement, including but not limited to Manganaro's payment of the Worker Share, may be deemed as creating rights in individual or entity third parties.

26. Any failure by any party to this Settlement Agreement to insist upon the strict performance by any other party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of any of the provisions of this Settlement Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement Agreement.

27. This Settlement Agreement, its interpretation and any enforcement of its provisions shall be governed by the laws of the District of Columbia.

KARL A. RACINE
Attorney General for the District of Columbia

James Graham Lake
James Graham Lake
Chief, Workers' Rights and Antifraud Section
Office of the Attorney General
400 6th St., NW, 10th Floor
Washington, D.C. 20001

Date: 11/30/22

Counsel for the District of Columbia

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Reston, VA 20191

Date: 11-28-2022

Counsel for Manganaro Midatlantic LLC