

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



In the Matter of SPiN DC LLC

SETTLEMENT AGREEMENT

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

I. THE PARTIES

1. The Attorney General for the District of Columbia is the chief legal officer for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest.

2. Respondent is a Delaware corporation that operates at a location in the District and maintains its headquarters at 48 E. 23rd Street, New York, NY 10010.

II. COVERED CONDUCT

3. The District alleges that Respondent failed to provide its employees with tip declaration forms in violation of the District’s Minimum Wage Revision Act (“MWRA”). *See* D.C. Code § 32–1001, *et seq.*

4. The District alleges that Respondent's use of non-compete agreements, beginning in 2020, constituted unlawful restraints of trade within the District. *See* D.C. Code § 28-4501, *et seq.*

5. The District also alleges that Respondent's use of non-compete agreements after October 1, 2022 violated the District's ban on non-compete agreements. *See* D.C. Code § 32-581.01., *et seq.*

6. Respondent denies the District's allegations. Nothing contained in this Settlement Agreement is or may be construed to be an admission by Respondent of any violation of law or regulation, any other matter of fact or law, or any liability or wrongdoing.

III. DEFINITIONS

7. “**Effective Date**” shall be the last date upon which any party executes the Settlement Agreement.

8. “**Eligible Employee**” is an employee eligible to receive a payment pursuant to this Settlement Agreement.

9. “**Non-Compete Agreement**” and “**Non-Compete Provision**” shall have the same meanings as those terms are defined in D.C. Code § 32-581.01 and shall include any non-solicitation provisions that have the effect of prohibiting an employee from performing work for another for pay or from operating the employee's own business.

IV. INJUNCTIVE TERMS

10. Respondent agrees to distribute to its employees, via email or an online portal, information on tip payments each pay period, showing the total tips received, including the amount of the tip outs or share of a tip pool that an individual employee provided to another employee or the amount of the tip outs or share of a tip pool that the employee received from another employee,

and the calculation by which the amount was determined, such as total tips received and hours worked, as set forth in D.C. Code § 32–1002(7C).

11. Respondent agrees to immediately cease its use of non-compete agreements for current or future employees who work in the District.

12. Respondent agrees to provide notice to all employees who are still subject to non-compete agreements or provisions entered into in calendar years 2020 through 2022 that they are no longer bound by any non-compete agreements that they previously entered into with Respondent. A mutually agreed upon written notice will be provided, via email or mail, to the affected employees within forty-five (45) days after the Effective Date.

13. Respondent agrees not to enforce its non-compete agreements, including those entered by any of its affiliates outside the District, against any current or former employees seeking employment in the District.

14. Respondent agrees to submit an annual report to the District for calendar years 2023 and 2024, consisting of a list of employees, job titles, hours worked, and wages and tips, including total tips collected and tip distributions, and include a certification of compliance with paragraphs 10 and 11 of this agreement for that calendar year. Respondent agrees to submit the annual report by February 28 of the following year to Conny Tello, Staff Assistant, Office of the Attorney General for the District of Columbia, 400 6th Street NW, 10th Floor, Washington, DC 20001, unless the Parties agree to another method of delivery.

V. PAYMENT TERMS

15. **Payments to Eligible Employees.** Respondent shall make payments totaling **\$3,000.00** to Eligible Employees. Respondent shall be responsible for distribution of these payments and will manage the distribution as follows:

- a. *Distribution of Payments.* Within forty-five (45) days after the Effective Date, Respondent shall distribute payments to Eligible Employees consistent with the amounts listed as due to each Eligible Employee under Appendix A.
- b. *Records and Reporting.* Respondent shall record the dates and methods (*i.e.*, direct deposit or cashed check) on which payments were distributed to Eligible Employees. Within ninety (90) days of the Effective Date, Respondent shall provide the District with a final report that shows all payments distributed to Eligible Employees and all payments remaining uncashed by Eligible Employees. The total of all payments remaining uncashed by Eligible Employees is referred to as the “Undistributed Funds”.
- c. *Payment of Undistributed Funds to the District.* Within 30 days after providing the records required by paragraph (b) above, Respondent shall make a payment to the District in the amount of the Undistributed Funds. Payments made to the District pursuant to this term may be used for any lawful purpose, including, but not limited to: deposit to the District’s litigation support fund or restitution 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.

16. **Payment to the District.** Respondent shall also pay **\$15,000.00** to the District as a civil penalty, within forty-five (45) days of the Effective Date.

17. All payments to the District shall be made by check made payable to “D.C. Treasurer” and delivered, via overnight mail, to Conny Tello, Staff Assistant, Office of Attorney General for the District of Columbia, 400 6th Street NW, 10th Floor, Washington, DC 20001, unless another method of payment is specified by the District.

VI. RELEASE

18. In exchange for the performance of Respondent’s obligations under this Settlement Agreement, and upon payment of all amounts due under this Agreement, the District hereby releases Respondent from any and all civil claims that the Attorney General could have asserted under D.C. Code § 32–1001, *et seq.*; § 28-4501, *et seq.*; § 32581.01., *et seq.* for claims arising out of the Covered Conduct.

VII. ADDITIONAL TERMS

19. This Settlement Agreement shall be considered effective and fully executed on the Effective Date. This Settlement Agreement may be executed in counterparts, and an electronic, 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.

20. This Settlement Agreement represents the full and complete terms of the settlement entered 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. All notices sent pursuant to this Settlement Agreement shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

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

Counsel for the District of Columbia

Kara M. Maciel
Conn Maciel Carey LLP
5335 Wisconsin Ave NW, Ste 660
Washington, D.C. 20015
kmaciel@connmaciel.com

Counsel for Respondent

22. 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.

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 Respondent 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. Respondent shall provide a copy of this Settlement Agreement to each of its current and future principals, officers, directors, and managers having decision-making authority with respect to the subject matter of this Settlement Agreement.

26. Respondent shall not form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Settlement Agreement.

27. Respondent shall not knowingly permit third parties authorized by Respondent to act on its behalf to engage in practices that would be violative of this Settlement Agreement.

BRIAN L. SCHWALB
Attorney General for the District of Columbia



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

Date: 8/1/2023

Counsel for the District of Columbia



Date: 8/1/2023

Respondent's Signatory