

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

: Civil No.:

v.

: Judge **1** **CV-05-0525**  
:  
:

WAL-MART STORES, INC.

STIPULATION IN COMPROMISE

FILED  
HARRISBURG, PA

MAR 14 2005

MARY E. DANFORD, CLERK  
Per.   
Deputy Clerk

THE UNITED STATES OF AMERICA, and WAL-MART STORES, INC  
stipulate and agree as follows:

WHEREAS the parties are the United States of America  
(hereinafter referred to as "United States") and Wal-Mart Stores,  
Inc. its subsidiaries, divisions, and affiliates (hereinafter  
referred to as "WAL-MART"); and

WHEREAS, the United States, on behalf of its agency,  
Immigration and Customs Enforcement, seeks pursuant to Title 8,  
United States Code, Section 1324a (f) (2), to enjoin, prevent, and  
deter the employment of unauthorized aliens by independent  
contractors employed by the defendant, WAL-MART; and

WHEREAS, Title 8, United States Code, Section 1324a  
prohibits persons and entities from knowingly hiring, recruiting,  
or continuing to employ aliens who are not legally authorized  
under federal law to work within the United States, See 8 United  
States Code, Section 1324a(a) (1)-(2); and

WHEREAS, WAL-MART is a Delaware corporation headquartered in  
Bentonville, Arkansas, which operates more than 3,000 retail

stores, 500 SAM'S Wholesale Clubs, 50 Neighborhood Markets, and distribution centers throughout the United States and around the world, including stores within the Middle District of Pennsylvania, and directly employs world-wide approximately 1,600,000 associates; and

WHEREAS, in addition to its own employees, from 1998 through 2003, **WAL-MART**, acting through its store managers, used independent contractors to provide floor cleaning services to many of its stores in the Middle District of Pennsylvania and elsewhere, and

WHEREAS, at various times between 1998 and 2003, as many as 1,000 **WAL-MART** stores used independent contractors to provide cleaning services to the stores, which **WAL-MART** operated in the Middle District of Pennsylvania and elsewhere; and

WHEREAS, by October 2003, approximately 700 **WAL-MART** stores used independent contractors to provide these store cleaning services; and

WHEREAS, beginning in 1998 and continuing through October 2003, enforcement actions undertaken by Special Agents of the Immigration and Naturalization Service and its successor agency, Immigration and Customs Enforcement, against floor cleaning contractors performing cleaning services at various **WAL-MART** stores in the Middle District of Pennsylvania and elsewhere documented that independent contractors used by **WAL-MART** to

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provide floor cleaning services were knowingly hiring, recruiting, and employing unauthorized aliens in violation of Title 8, United States Code, Section 1324a; and

WHEREAS, **WAL-MART** did not have knowledge, at the time the independent contractors initially were hired, that the independent contractors knowingly hired, recruited, or employed unauthorized aliens in violation of Title 8, United States Code, Section 1324a; and

WHEREAS, these enforcement actions culminated on October 23, 2003, when Immigration enforcement actions at approximately 61 **WAL-MART** stores in the Middle District of Pennsylvania and elsewhere apprehended approximately 245 unauthorized, undocumented aliens employed by independent cleaning service contractors at **WAL-MART** stores located in 21 states; and

WHEREAS, following this enforcement action, **WAL-MART** notified the United States of its intention to take steps, including, but not limited to, a series of corrective actions to ensure that independent contractors working for **WAL-MART** comply with all aspects of federal laws governing the employment of aliens; and

WHEREAS, **WAL-MART** recognizes that its compliance program did not include all procedures necessary to identify independent cleaning-service contractors who did not comply with federal laws governing the employment of aliens; and

WHEREAS, following a thorough investigation, the United States concluded that federal criminal proceedings involving **WAL-MART**, its directors, officers, or employees would not be appropriate; and,

WHEREAS, the parties further jointly agree that nothing in this Complaint, or Stipulation in Compromise is, or should be in any way construed as, an acknowledgment of any civil liability or criminal culpability on the part of **WAL-MART**, its directors, officers, or employees.

ACCORDINGLY, to ensure compliance with the immigration laws by all independent contractors doing work for **WAL-MART**, the parties jointly agreed that the United States should bring this action to memorialize and reflect the joint commitment of **WAL-MART** and the United States to enjoin and prevent the employment of unauthorized aliens by independent contractors used by **WAL-MART**, and in furtherance of this goal, the United States and **WAL-MART** jointly covenant and agree as follows:

A. The parties jointly agree and consent to the entry of an Order permanently enjoining **WAL-MART**, acting either directly or through independent contractors used by **WAL-MART**, from knowingly hiring, recruiting, and continuing to employ aliens who are not legally authorized to work within the United States.

B. The parties further jointly agree and consent to the entry of an Order directing **WAL-MART** to continue to cooperate with the United States in its investigation of alleged illegal employment practices by independent cleaning contractors previously used by **WAL-MART**. **WAL-MART** understands and agrees that complete and truthful cooperation is a material condition of this agreement. Cooperation shall include providing all information known to **WAL-MART** regarding any criminal activity involving employment of illegal aliens, including, but not limited to, the matters described in this Agreement. Cooperation will also include complying with all reasonable instructions from the United States, regarding interviews of **WAL-MART** personnel by investigators and attorneys at such reasonable times and places to be determined by counsel for the United States and to testifying fully and truthfully before any grand juries, hearings, trials or any other proceedings where this testimony is deemed by the United States to be relevant.

C. The parties further jointly agree and consent to the entry of an Order directing **WAL-MART** to maintain its own established, on-going and pre-existing program of taking reasonable steps to ensure that associates employed by **WAL-MART** are authorized to work within the United States while continuing to ensure **Wal-Mart's** compliance with pertinent anti-discrimination laws.

D. The parties further jointly agree and consent to the entry of an order directing **WAL-MART** to establish, as part of its compliance program, a means to verify that independent contractors used by **WAL-MART** are also taking reasonable steps to comply with immigration laws in their employment practices and cooperate truthfully with any investigation of these matters. **WAL-MART** shall have eighteen months from the date of this Agreement to develop compliance guidelines for independent contractors.

E. The parties further jointly agree and consent to the entry of an Order directing **WAL-MART** to provide all of its store managers with training regarding their legal obligations to prevent the knowing hiring, recruitment, and continued employment of unauthorized aliens while complying with pertinent anti-discrimination laws. Such training will be provided to all **WAL-MART** store managers within eighteen months of the filing of this complaint and the entry of a court order pursuant to the terms of this Stipulation in Compromise; and

F. The parties further jointly agree and consent to the entry of an Order directing **WAL-MART** to make a payment of \$11,000,000 through the United States Attorney's Office for administrative processing by Immigration and Custom Enforcement and deposit into the Treasury Forfeiture Fund for the purpose of

promoting future law enforcement programs and activities in this field by Immigration and Customs Enforcement. While the parties agree that this action by **WAL-MART** does not constitute any admission of any wrongdoing, **WAL-MART** agrees to waive all right, title, and interest to these funds, to waive any notice requirements established by law or the Constitution, and to cooperate fully with the United States Attorney in any administrative actions taken by the United States to deposit these funds into the Treasury Forfeiture Fund.

G. In consideration of the foregoing stipulations by **WAL-MART**, the United States agrees that upon the entry of the Decree and Order that incorporates the terms and conditions of this Stipulation in Compromise, the United States will bring no other criminal, civil or administrative actions against **WAL-MART**, or its divisions, subsidiaries, affiliates, directors, officers, or employees, in any federal judicial district in the United States, arising out of the encouragement to enter or reside, transportation, hiring, recruitment, employment or continued employment of aliens who are not legally authorized to work within the United States by independent contractors used by **WAL-MART** stores from January 1998 through December 2003. The parties intend for the Agreement to be a global settlement binding all components of the United States Department of Justice, and the Department of Homeland Security. Moreover, the parties agree

that, in the event that the United States ever subsequently initiated contempt proceedings to enforce this Consent Decree and injunction, in any material respect, in the event that the court found that **WAL-MART** had wilfully violated this Consent Decree and injunction, the court could enter an Order relieving the United States of its obligations under paragraph G of this Agreement. The United States further agrees that its covenants and promises in this agreement shall be enforceable by **WAL-MART** through injunctive relief in the appropriate federal judicial district.

H. The parties further jointly agree that the provisions of this Stipulation in Compromise are severable, and should any court invalidate any provision or a part of any provision as not allowed by law, the remaining provisions of the Stipulation in Compromise shall remain in full force and effect.

I. This Stipulation in Compromise shall terminate on the fifth anniversary of the date of the entry of the Consent Decree and Order entered in the civil action between the parties hereto in the United States District Court for the Middle District of Pennsylvania.

Dated this 14<sup>th</sup> day of March, 2005.

UNITED STATES OF AMERICA

BY: Thomas A. Marino

WAL-MART STORES, INC.

BY: Michael T. Duke  
EVP.