

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA, Plaintiff, v. COMMONWEALTH OF PUERTO RICO, PUERTO RICO POLICE BUREAU, AND PROMOTIONS EXAMINATION BOARD, Defendants.		Civil Action No. 3:18-cv-1300
--	--	--------------------------------------

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Plaintiff United States of America (“United States”) commenced this action in the United States District Court for the District of Puerto Rico, alleging that the Commonwealth of Puerto Rico (“Commonwealth”), Puerto Rico Police Bureau (“PRPB”), and Promotions Examination Board (“PEB”) (collectively, the “Defendants”) violated the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”) by:

- (a) Failing or refusing to credit Wilfredo Cruz Rivera’s (“Cruz”) promotion to Second Lieutenant under announcement #2009-3, effective October 15, 2010, the date he would have been promoted absent his military service;
- (b) Failing or refusing to allow Cruz the opportunity to make up the subsequent First Lieutenant’s promotional examination under announcement #2012-2;

- (c) Failing or refusing to credit Cruz's promotion to First Lieutenant under announcement #2012-2, effective October 26, 2012, the date he would have been promoted absent his military service;
- (d) Failing or refusing to allow Cruz the opportunity to make up the subsequent Captain's promotional examination under announcement #2015-2;
- (e) Failing or refusing to credit Cruz's promotion to Captain under announcement #2015-2, effective February 16, 2016, the date he would have been promoted absent his military service;
- (f) Failing or refusing to credit Jose Bernal Martinez's ("Bernal") promotion to Sergeant under announcement #2011-1, effective February 29, 2012, the date he would have been promoted absent his military service;
- (g) Failing or refusing to allow Bernal the opportunity to make up the subsequent Second Lieutenant promotional examination under announcement #2015-4;
- (h) Failing or refusing to credit Bernal's promotion to Second Lieutenant under announcement #2015-4, effective February 16, 2016, the date he would have been promoted absent his military service;
- (i) Failing or refusing to credit Angel Martinez Toro's ("Martinez") promotion to Sergeant under announcement #2011-1, effective February 29, 2012, the date he would have been promoted absent his military service;
- (j) Failing or refusing to allow Martinez the opportunity to make up the subsequent Second Lieutenant promotional examination under announcement #2015-4; and

(k) Failing or refusing to credit Martinez's promotion to Second Lieutenant under announcement #2015-4, effective February 16, 2016, the date he would have been promoted absent his military service.

2. Defendant Promotions Examination Board is joined as a necessary party pursuant to Fed. R. Civ. P. 19(a)(1)(A) as the administrator of promotional examinations for the Puerto Rico Police Bureau.

3. The parties, desiring to settle appropriately this action, agree to the jurisdiction of this Court over them and the subject matter of this action, and hereby waive the entry of findings of fact and conclusions of law.

4. The parties, desiring to avoid protracted and unnecessary litigation, also accept this Settlement Agreement ("Settlement Agreement" or "Agreement") as final on the issues resolved, without conceding or denying liability, negligence or error by either party.

5. In resolution of this action, the parties hereby AGREE and the Court expressly APPROVES, ENTERS and ORDERS the following:

II. PARTIES AND DEFINITIONS

6. The parties to this Agreement are the United States and Defendants, their current, former and future agents, employees, officials, designees and successors in interest.

III. PURPOSES OF THIS SETTLEMENT AGREEMENT

7. The purposes of this Agreement are to ensure that:

- (a) None of Defendants' employees be subject to discrimination on the basis of their active duty military service, in violation of USERRA; and
- (b) Defendants provide appropriate remedial relief to Cruz, Bernal, and Martinez.

IV. GENERAL INJUNCTIVE RELIEF

8. Defendants, their current, former and future agents, employees, officials, designees and successors in interest shall not discriminate against any employee because of the employee's active duty military service, in violation of USERRA.

V. POLICIES

9. Within ninety (90) days of the Effective Date of this Agreement, Defendants shall revise their policy regarding USERRA or issue a directive that will later be incorporated in their revised USERRA policy. The directive and/or revised USERRA policy shall reflect that service members who miss promotional examinations because of their active duty service be allowed to take the promotional examination upon their return, and, if later promoted, receive retroactive promotion dates and the seniority, pay, benefits, pension, and other job perquisites, that the service member would have attained if not for the active duty service.

10. Defendants shall provide a copy of the revised USERRA policy or the directive to the United States at least thirty (30) days before it is finalized or implemented. The United States shall provide any comments or objections to the policy revisions or the directive within fifteen (15) days of receipt of the revised policy or the directive. The parties shall work cooperatively to resolve any issues or concerns regarding the revisions. Any disputes shall be resolved in accordance with Paragraph 42 of this Agreement.

11. Defendants shall also provide to the United States a copy of the final revised USERRA policy and the directive within fifteen (15) days of its finalization and implementation.

12. Within sixty (60) days of the finalization and implementation of their revised policy regarding USERRA or issuance of the directive, Defendants shall provide all of their personnel with a copy of the new policy or directive using the normal means of distributing policies.

Defendants shall require the PRPB personnel charged with carrying out the revised USERRA policy or directive to certify that they have received, read, and understood the policy or directive. Defendants shall provide to the United States a list showing the names and titles of those who have completed the certification within thirty (30) days of the distribution of the policy or directive.

VI. INDIVIDUAL RELIEF

13. Without admitting the allegations contained in the Complaint, and in settlement of the United States' claims, Defendants shall credit Cruz with \$732.00 for promotion to Second Lieutenant under announcement #2009-3, effective October 15, 2010, the date he would have been promoted absent his military service. This amount will be used to offset an unintentional overpayment by Defendants to Cruz. This amount constitutes the parties' determination of the difference in compensation and benefits paid to Cruz as a Sergeant versus what he would have been paid as a Second Lieutenant between October 15, 2010 and October 25, 2012.

14. The Defendants shall issue a notice to the United States and Cruz stating that Cruz will be assigned a date of promotion to Second Lieutenant as of October 15, 2010. The Defendants shall cause all necessary employment records and accounts to be adjusted to reflect the retroactive promotion date. The Defendants shall use Cruz's retroactive promotion date for all purposes for which seniority is used, including, but not limited to, pay, benefits, pension, and other job perquisites. The Defendants shall also issue a notice to the United States and Cruz stating that Cruz's pension has been altered to reflect the updated salary and the amount and date of the credit.

15. Without admitting the allegations contained in the Complaint, and in settlement of the United States' claims, Defendants shall credit Bernal with \$5,288.82 for promotion to Sergeant

under announcement #2011-1, effective February 29, 2012, the date he would have been promoted absent his military service. This amount will be used to offset an unintentional overpayment by Defendants to Bernal. This amount constitutes the parties' determination of the difference in compensation and benefits paid to Bernal as a police officer versus what he would have been paid as a Sergeant between February 29, 2012 and February 15, 2016.

16. The Defendants shall issue a notice to the United States and Bernal stating that Bernal will be assigned a date of promotion to Sergeant as of February 29, 2012. The Defendants shall cause all necessary employment records and accounts to be adjusted to reflect the retroactive promotion date. The Defendants shall use Bernal's retroactive promotion date for all purposes for which seniority is used including, but not limited to, pay, benefits, pension, and other job perquisites. The Defendants shall also issue a notice to the United States and Bernal stating that Bernal's pension has been altered to reflect the updated salary and the amount and date of the credit.

17. Without admitting the allegations contained in the Complaint, and in settlement of the United States' claims, Defendants shall pay Martinez \$4,759.50 for promotion to Sergeant under announcement #2011-1, effective February 29, 2012, the date he would have been promoted absent his military service. This amount constitutes the parties' determination of the difference in compensation and benefits paid to Martinez as a police officer versus what he would have been paid as a Sergeant between February 29, 2012 and February 15, 2016.

18. For all payments made on account of this Settlement Agreement, the Defendants shall assume all responsibility for all tax liabilities applicable to payors (including issuing appropriate tax forms) incurred as a result of the payments made pursuant to this Agreement, and the individual service member shall assume all responsibility for all tax liabilities applicable to

payees incurred as a result of acceptance of payments pursuant to this Agreement. At the conclusion of the tax year in which a payment is made, the Defendants shall issue the service member a W-2 reflecting this payment.

19. The Defendants shall issue a notice to the United States and Martinez stating that Martinez will be assigned a date of promotion to Sergeant as of February 29, 2012. The Defendants shall cause all necessary employment records and accounts to be adjusted to reflect the retroactive promotion date. The Defendants shall use Martinez's retroactive promotion date for all purposes for which seniority is used including, but not limited to, pay, benefits, pension, and other job perquisites. The Defendants shall also issue a notice to the United States and Martinez stating that Martinez's pension has been altered to reflect the updated salary and the amount and date of the credit.

20. On December 6, 2016, the Defendants administered to Cruz a make-up First Lieutenant's promotional examination under announcement #2012-2. Cruz passed the test and scored high enough to be promoted to First Lieutenant. The Defendants shall promote Cruz to First Lieutenant on or by May 31, 2018 with all of the rights, benefits (including, but not limited to, pension contributions pursuant to a retroactive pay increase), and seniority that Cruz would have enjoyed if he had been permitted to take the promotional exam on August 4, 2012 and had achieved the same score. The Defendants shall record Cruz's promotion to First Lieutenant effective as of October 26, 2012, the date Cruz would have been promoted to First Lieutenant absent his military service. The Defendants shall pay (or credit) Cruz \$11,662.00 in backpay, reflecting the difference in the amount Cruz would have earned had he received the First Lieutenant promotion as of October 26, 2012, the date he would have been promoted absent his

military service. If Defendants provide backpay to Cruz, the process relating to taxes set forth in Paragraph 18 will apply.

21. If the Defendants fail to promote Cruz to First Lieutenant by May 31, 2018, starting May 31, 2018, Defendants will pay Cruz the salary of a First Lieutenant while he remains a Second Lieutenant. If the Defendants fail to promote Cruz to First Lieutenant by May 31, 2018, when Cruz is promoted to First Lieutenant, Defendants shall record Cruz's promotion to First Lieutenant effective as of October 26, 2012, the date Cruz would have been promoted to First Lieutenant absent his military service.

22. When Cruz is promoted to First Lieutenant pursuant to Paragraphs 20-21, the Defendants shall issue a notice to the United States and Cruz stating that Cruz will be assigned a date of promotion to First Lieutenant as of October 26, 2012. The Defendants shall cause all necessary employment records and accounts to be adjusted to reflect the retroactive promotion date. The Defendants shall use Cruz's retroactive promotion date for all purposes for which seniority is used, including, but not limited to, pay, benefits, pension, and other job perquisites. The Defendants shall also issue a notice to the United States and Cruz stating that Cruz's pension has been altered to reflect the updated salary and the amount and date of the credit.

23. After Cruz is promoted to First Lieutenant pursuant to Paragraphs 20-21, Defendants shall administer to Cruz a make-up Captain's promotional examination under announcement #2015-2, with appropriate notice and time allotted for Cruz to study for the examination. The Defendants shall file Cruz's score on the make-up examination into the existing promotional eligibility list for the original Captain's promotional examination under announcement #2015-2. If Cruz's score merits it, the Defendants shall promote Cruz to Captain with all of the rights, benefits (including, but not limited to, pension contributions and backpay pursuant to a

retroactive pay increase), and seniority that Cruz would have enjoyed if he had been permitted to take the promotional exam on October 24, 2015 and had achieved the same score. Should the Defendants promote Cruz to Captain pursuant to this paragraph, the Defendants shall record Cruz's promotion to Captain effective as of February 16, 2016, the date Cruz would have been promoted to Captain absent his military service.

24. If Cruz is promoted to Captain pursuant to Paragraph 23, the Defendants shall issue a notice to the United States and Cruz stating that Cruz will be assigned a date of promotion to Captain as of February 16, 2016, the date Cruz would have been promoted to Captain absent his military service. The Defendants shall cause all necessary employment records and accounts to be adjusted to reflect the retroactive promotion date of February 16, 2016. The Defendants shall use Cruz's retroactive promotion date for all purposes for which seniority is used, including, but not limited to, pay, benefits, pension, and other job perquisites. Should the Defendants promote Cruz to Captain, the Defendants shall pay (or credit) Cruz the backpay reflecting the difference in the amount Cruz would have earned had he received the Captain promotion as of February 16, 2016, the date Cruz would have been promoted to Captain absent his military service. If Defendants provide backpay to Cruz, the process relating to taxes set forth in Paragraph 18 will apply. The Defendants shall also issue a notice to the United States and Cruz stating that Cruz's pension has been altered to reflect the updated salary and the amount and date of the credit. If Cruz is promoted to Captain, Defendants shall also deem Cruz eligible for the position of Inspector, as he would have been absent his military service.

25. By his signature to the accompanying release, attached hereto as Appendix A, Cruz agrees that the relief provided in this Agreement is a satisfactory resolution of any and all claims described in such release. The release shall be submitted by Cruz to PRPB in accordance with

the Notice Letter, attached hereto as Appendix B, which will be sent by the Defendants to Cruz within fifteen (15) days of the entry of this Agreement.

26. On December 6, 2016, the Defendants administered to Bernal a make-up Second Lieutenant's promotional examination under announcement #2015-4. Bernal passed the test and scored high enough to be promoted to Second Lieutenant. The Defendants shall promote Bernal to Second Lieutenant on or by May 31, 2018 with all of the rights, benefits (including, but not limited to, pension contributions pursuant to a retroactive pay increase), and seniority that Bernal would have enjoyed if he had been permitted to take the promotional exam on December 1, 2015 and had achieved the same score. The Defendants shall record Bernal's promotion to Second Lieutenant effective as of February 16, 2016, the date Bernal would have been promoted to Second Lieutenant absent his military service. The Defendants shall pay (or credit) Bernal \$1,794.50 in backpay, reflecting the difference in the amount Bernal would have earned had he received the Second Lieutenant promotion as of February 16, 2016, the date he would have been promoted absent his military service. If Defendants provide backpay to Bernal, the process relating to taxes set forth in Paragraph 18 will apply.

27. If the Defendants fail to promote Bernal to Second Lieutenant by May 31, 2018, starting May 31, 2018, Defendants will pay Bernal the salary of a Second Lieutenant while he remains a Sergeant. If the Defendants fail to promote Bernal to Second Lieutenant by May 31, 2018, when Bernal is promoted to Second Lieutenant, Defendants shall record Bernal's promotion to Second Lieutenant effective as of February 16, 2016 the date Bernal would have been promoted to Second Lieutenant absent his military service.

28. When Bernal is promoted to Second Lieutenant pursuant to Paragraphs 26-27, the Defendants shall issue a notice to the United States and Bernal stating that Bernal will be

assigned a date of promotion to Second Lieutenant as of February 16, 2016. The Defendants shall cause all necessary employment records and accounts to be adjusted to reflect the retroactive promotion date. The Defendants shall use Bernal's retroactive promotion date for all purposes for which seniority is used, including, but not limited to, pay, benefits, pension, and other job perquisites. The Defendants shall also issue a notice to the United States and Bernal stating that Bernal's pension has been altered to reflect the updated salary and the amount and date of the credit. When Bernal is promoted to Second Lieutenant, Defendants shall also allow Bernal to makeup any subsequent promotional opportunities missed or delayed because of his active duty military service, including promotional opportunities for the positions of First Lieutenant and Captain. If Bernal is promoted regarding the subsequent respective promotional opportunities, Defendants shall promote Bernal effective on or about the date(s) he would have been promoted absent his military service. In these events, the Defendants shall use Bernal's retroactive promotion date(s) to the respective positions for all purposes for which seniority is used, including, but not limited to, pay, benefits, pension, and other job perquisites. The Defendants shall follow the procedures for notice, backpay, employment records, and taxes for these respective promotions as described above for the promotion to Second Lieutenant.

29. By his signature to the accompanying release, attached hereto as Appendix C, Bernal agrees that the relief provided in this Agreement is a satisfactory resolution of any and all claims described in such release. The release shall be submitted by Bernal to PRPB in accordance with the Notice Letter, attached hereto as Appendix D, which will be sent by the Defendants to Bernal within fifteen (15) days of the entry of this Agreement.

30. On December 6, 2016, the Defendants administered to Martinez a make-up Second Lieutenant's promotional examination under announcement #2015-4. Martinez passed the test

and scored high enough to be promoted to Second Lieutenant. The Defendants shall promote Martinez to Second Lieutenant on or by May 31, 2018 with all of the rights, benefits (including, but not limited to, pension contributions pursuant to a retroactive pay increase), and seniority that Martinez would have enjoyed if he had been permitted to take the promotional exam on December 1, 2015 and had achieved the same score. The Defendants shall record Martinez's promotion to Second Lieutenant effective as of February 16, 2016, the date Martinez would have been promoted to Second Lieutenant absent his military service. The Defendants shall pay Martinez \$2,729.50 in backpay, reflecting the difference in the amount Martinez would have earned had he received the Second Lieutenant promotion as of February 16, 2016, the date he would have been promoted absent his military service. If Defendants provide backpay to Martinez, the process relating to taxes set forth in Paragraph 18 will apply.

31. If the Defendants fail to promote Martinez to Second Lieutenant by May 31, 2018, starting Defendants will pay Martinez the salary of a Second Lieutenant while he remains a Sergeant. If the Defendants fail to promote Martinez to Second Lieutenant by May 31, 2018, when Martinez is promoted to Second Lieutenant, Defendants shall record Martinez's promotion to Second Lieutenant effective as of October 26, 2012, the date Martinez would have been promoted to Second Lieutenant absent his military service.

32. When Martinez is promoted to Second Lieutenant pursuant to Paragraphs 30-31, the Defendants shall issue a notice to the United States and Martinez stating that Martinez will be assigned a date of promotion to Second Lieutenant as of February 16, 2016. The Defendants shall cause all necessary employment records and accounts to be adjusted to reflect the retroactive promotion date. The Defendants shall use Martinez's retroactive promotion date for all purposes for which seniority is used, including, but not limited to, pay, benefits, pension, and

other job perquisites. The Defendants shall also issue a notice to the United States and Martinez stating that Martinez's pension has been altered to reflect the updated salary and the amount and date of the credit. After Martinez is promoted to Second Lieutenant, Defendants shall also allow Martinez to make-up any subsequent promotional opportunities missed or delayed because of his active duty military service, including promotional opportunities for the positions of First Lieutenant, Captain, and Inspector. If Martinez is promoted regarding the subsequent respective promotional opportunities, Defendants shall promote Martinez effective on or about the date(s) he would have been promoted absent his military service. In these events, the Defendants shall use Martinez's retroactive promotion date(s) to the respective positions for all purposes for which seniority is used, including, but not limited to, pay, benefits, pension, and other job perquisites. The Defendants shall follow the procedures for notice, backpay, employment records, and taxes for these respective promotions as described above for the promotion to Second Lieutenant.

33. By his signature to the accompanying release, attached hereto as Appendix E, Martinez agrees that the relief provided in this Agreement is a satisfactory resolution of any and all claims described in such release. The release shall be submitted by Martinez to PRPB in accordance with the Notice Letter, attached hereto as Appendix F, which will be sent by the Defendants to Martinez within fifteen (15) days of the entry of this Agreement.

IX. COMPLIANCE WITH TERMS AND CONDITIONS

34. The United States may review compliance with this Settlement Agreement until final compliance with its terms and conditions.

35. The Defendants shall, upon request, provide to the United States the pertinent documents related to compliance with this Agreement within thirty (30) days of the request.

36. Unless another date is specified or a future promotional test must be administered, Defendants shall undertake the actions delineated in this Settlement Agreement within 30 days of receiving the releases from the service members.

37. Defendants agree to the following payment plan as provided by Article 13(a) of Law 3 of 2017. Any payment made pursuant to paragraphs 13, 15, 17, 20, 26, and 30 that results in a credit or repayment of funds to PRPB because of an unintentional overpayment to the service member will occur within 30 days of PRPB receiving the release from the service member. Any payment made pursuant to paragraphs 13, 15, 17, 20, 26, and 30 that results in a monetary payment to the service member will be made on or before June 30, 2019. Any subsequent payment that results in a repayment of funds to PRPB because of an unintentional overpayment to the service member will occur within 30 days of the relevant promotion. Any subsequent payment that results in a monetary payment to the service member will occur within six months of the relevant promotion. Prior to effectuating payment of a monetary award/payment, a service member will be required to submit to the PRPB, through its counsel, the official certifications as required by Article 28(i) of Act 66 of June 17, 2014, consisting of the official certifications issued by (1) the Commonwealth's Treasury Department, (2) the Administración para el Sustento de Menores (ASUME), and (3) the Centro de Recaudación de Ingresos Municipales (CRIM), showing the status of any outstanding debts the service member may have or may not have. PRPB's agreement to set a specific date for the payment of the settlement amounts in this case shall not be interpreted as a policy or custom to do so by the PRPB.

38. Within fifteen (15) days after the date of entry of this Agreement, Defendants shall notify Cruz, Bernal, and Martinez of its terms by mailing to each service member, via certified mail, a copy of the respective Notice Letters set forth at Appendices B, D, and F, in both English and

Spanish. The Notice Letters shall inform the service members that in order to receive the relief offered to them, each must do the following:

- (i) return the respective executed Individual Relief and Release of Claims Form, at Appendices A, C, and E;
- (ii) return the official certifications as required by Article 28(i) of Act 66 of June 17, 2014, consisting of the official certifications issued by (1) the Commonwealth's Treasury Department, (2) the Administración para el Sustento de Menores (ASUME), and (3) the Centro de Recaudación de Ingresos Municipales (CRIM), showing the status of any outstanding debts each may or may not have;
- (iii) return the releases listed in (i) above to Defendants, as set forth in the respective Notice Letter, within thirty (30) days of receipt of the Notice Letter unless good cause, as determined exclusively by the United States, exists for any failure to do so;
- (iv) in the case of monetary payments, return the certifications listed in (ii) above to Defendants, as set forth in the respective Notice Letter; and
- (v) update Defendants regarding any changes to their respective addresses.

39. Any future promotional tests and required training for the service members will be scheduled at the earliest possible time and in consultation with the service members. If there are future promotions from those examinations, Defendants shall undertake the actions delineated in this Settlement Agreement regarding future promotions within 30 days of the promotion, if such promotion occurs.

40. If the Defendants fail to make the payments in this Settlement Agreement within the timeframes set out within this Settlement Agreement, any payments will be increased by interest

due on the payments. The interest rate will be the underpayment interest rate of the Internal Revenue Service in effect at the time.

X. NOTIFICATION OF THE PARTIES

41. All notices and documents required to be provided to counsel for the United States shall be delivered electronically and through First Class Mail to:

ANDREW G. BRANIFF
Special Litigation Counsel
Employment Litigation Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW, PHB-4607
Washington, DC 20530
Telephone: 202-514-9229
Facsimile: 202-514-1005
E-mail: andrew.braniff@usdoj.gov

42. All documents required to be delivered under this Agreement to PRPB shall be delivered electronically and/or through First Class Mail to the attention of:

Jorge J. Villavicencio, Director AND
Oficina de Asuntos Legales
Policía de Puerto Rico
P.O. Box 70166
San Juan, PR 00936
JVillavicencio@policia.pr.gov

Joel Torres Ortiz, Esq.
Federal Litigation Division
Department of Justice
P.O. Box 9020192
San Juan, PR 00902-0192
joeltorres@justicia.pr.gov

XI. JURISDICTION OF THE COURT

43. The Court shall maintain jurisdiction of the matters covered by this Settlement Agreement. This Agreement shall expire without further order of this Court two (2) years from the date of its entry unless the relief (e.g., tests, promotions, backpay or credit, and certifications) have not occurred, in which case the Court shall maintain jurisdiction over the matters covered by this Agreement until the relief is completed. The parties agree that if there are any USERRA

violations regarding the subsequent promotions set forth in this Settlement Agreement, the United States retains its right to pursue the enforcement of this Settlement Agreement in the United States District Court for the District of Puerto Rico and/or to file separate USERRA causes of action.

44. If a dispute arises concerning compliance with this Agreement, the parties shall engage in good faith efforts to resolve the issue before seeking action by the Court. If the parties are unable expeditiously to resolve the issue, any party may move the Court for resolution, provided that written notice is first provided to the other party at least fourteen (14) days in advance of any intended filing with the Court.

45. This Settlement Agreement is consistent with the Agreement for the Sustainable Reform of the Puerto Rico Police Bureau (“Reform Agreement”) in *United States v. Commonwealth of Puerto Rico et al.*, Case No. 3:12-cv-2039 (GAG) and the Consent Decree in *United States v. Commonwealth of Puerto Rico et al.*, Case No. 3:13-cv-01566 (FAB). This Agreement is consistent with the broad reforms that are being implemented regarding the policing, policies, and practices of the Puerto Rico Police Bureau, including Paragraphs 13 through 20 of the Reform Agreement. Nothing in this Settlement Agreement is intended to conflict with compliance with USERRA law, Title VII, or any other federal law.

46. The Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”) does not prevent the parties from entering into this Settlement Agreement. Defendants agree that court approval for this Settlement Agreement under PROMESA is unnecessary because the court may not interfere with the property or revenues of the Commonwealth under 48 U.S.C. § 2165

and because Defendants are voluntarily entering into this Agreement.

APPROVED and **ORDERED** this _____ day of _____, 2018.

UNITED STATES DISTRICT JUDGE

AGREED AND CONSENTED TO:

On behalf of Plaintiff United States of America

JOHN M. GORE

Acting Assistant Attorney General
Civil Rights Division

DELORA L. KENNEBREW

Chief
Employment Litigation Section
Civil Rights Division

ANDREW G. BRANIFF

Special Litigation Counsel

/s/ Sonya L. Sacks

/s/ Louis Whitsett

Dated: May 18, 2018

SONYA L. SACKS

(USDC-PR No. G01714)

LOUIS WHITSETT

(USDC-PR No. G02805)

Senior Trial Attorneys
United States Department of Justice
Civil Rights Division
Employment Litigation Section - PHB Room 4024
950 Pennsylvania Avenue, NW
Washington, DC 20530
Telephone: 202-305-7781
Facsimile: 202-514-1005
Email: sonya.sacks@usdoj.gov
Email: louis.whitsett@usdoj.gov

AGREED AND CONSENTED TO:

On behalf of Defendants Commonwealth of Puerto Rico, Puerto Rico Police Bureau, and Promotions Examination Board

WANDA VAZQUEZ-GARCED

Secretary of Justice

WANDYMAR BURGOS-VARGAS

Deputy Secretary in Charge of Litigation

SUSANA PENAGARICANO-BROWN

Director of Federal Litigation
and Bankruptcy

/s/ Joel Torres Ortiz

Dated: May 18, 2018

JOEL TORRES ORTIZ, Esq.

(USDC-PR No. 302311)

Federal Litigation Division

Department of Justice

P.O. Box 9020192

San Juan, PR 00902-0192

Telephone: (787) 721-2900 Ext. 2647, 2650, 2624, 2606

Facsimile: (787) 723-9188

Email: joeltorres@justicia.pr.gov

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
COMMONWEALTH OF PUERTO RICO,)	
PUERTO RICO POLICE BUREAU, and)	
PROMOTIONS EXAMINATION BOARD,)	
)	
Defendants.)	
)	

APPENDIX A

**RELEASE OF CLAIMS AS TO THE
COMMONWEALTH OF PUERTO RICO, PUERTO RICO POLICE BUREAU, AND
PROMOTIONS EXAMINATION BOARD**

I, Wilfredo Cruz Rivera, for and in consideration of accepting the relief to be provided to me pursuant to the provisions of the Settlement Agreement filed in the above-captioned action and on the condition that my future promotions will be handled as set forth in the Settlement Agreement, hereby forever release and discharge the Commonwealth of Puerto Rico, Puerto Rico Police Bureau, and Promotions Examination Board (collectively the “Defendants”), and their current, former and future officials, employees, agents, representatives, successors, and/or assigns of any and all claims, liabilities, demands, damages, and/or causes of action, arising from or related to the allegations raised in this action or in United States Department of Labor Veterans' Employment and Training Service ("VETS") Case No. PR-2015-00009-20-G.

I hereby withdraw the referral of my complaint in VETS Case No. PR-2015-00009-20-G to the Department of Justice and understand that the Department of Justice will close its

investigation of this matter.

I understand that the relief to be given to me under the Settlement Agreement does not constitute an admission by the Commonwealth of Puerto Rico, the Puerto Rico Police Bureau, or the Promotions Examination Board of the validity of any claim raised by me or on my behalf. I further understand that the terms and conditions of the Settlement Agreement, any related orders of the Court, or this release do not constitute a finding of wrongdoing or liability by the Commonwealth the Commonwealth, the Puerto Rico Police Bureau, or the Promotions Examination Board under any provision of law.

Nothing in this Release of Claims shall prevent me from filing a subsequent USERRA or any other claim regarding future promotions.

I acknowledge that a copy of the Settlement Agreement has been made available to me.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF,
AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Wilfredo Cruz Rivera

Signed this ____ day of _____, 2018.

Subscribed and sworn to before me this
____ day of _____, 2018.

Notary Public

APPENDIX B

NOTICE LETTER

VIA CERTIFIED MAIL

[Date]

Wilfredo Cruz Rivera


Re: United States of America v. Commonwealth of Puerto Rico et al., Civ. No.

Dear Mr. Cruz:

A Settlement Agreement has been entered settling a complaint of discrimination filed by the United States of America (“United States”) against the Commonwealth of Puerto Rico (“Commonwealth”), the Puerto Rico Police Bureau (“PRPB”), and the Promotions Examination Board (“PEB”) (collectively, “Defendants”). A copy of the Settlement Agreement, which was entered and approved by the Court on _____, is enclosed.

Under the terms of the Settlement Agreement entered in the case of *United States of America v. Commonwealth of Puerto Rico et al.*, Civil Action No. _____, you are being offered the following: (1) a monetary credit (against your previous overpayment) in the amount of \$12,394.00, which represents the amount of back pay owed to you, which shall be credited within 30 days of the return of your signed release as described below; (2) your promotion to Second Lieutenant effective as of October 15, 2010; (3) your promotion to First Lieutenant effective as of October 26, 2012; and (4) the opportunity to take the subsequent Captain’s promotional examination.

In order to receive the relief that is offered to you pursuant to the Settlement Agreement, you must complete and return the enclosed Individual Relief and Release of Claims Form (“Release”). The Release must be signed before a Notary Public and returned to the undersigned. If you do not return the Release within thirty (30) days from your receipt of this letter, you will forfeit your rights to any relief under the Settlement Agreement, unless you are able to show good cause as determined by the United States, for your failure to do so. If the back pay owed to you is more than the balance you owe on your overpayment, the remaining monetary payment will be paid to you via certified or bank check, sent by certified mail, on or before June 30, 2019, upon the terms provided by Puerto Rico Act 66 of June 17, 2014 and any other applicable federal or state law. Prior to effectuating payment of the remaining monetary award, you will be required to submit to the PRPD, through its counsel, the official certifications as required by Article 28(i) of Act 66 of June 17, 2014, consisting of the official certifications issued by (1) the Commonwealth’s

Treasury Department, (2) the Administración para el Sustento de Menores (ASUME), and (3) the Centro de Recaudación de Ingresos Municipales (CRIM), showing the status of any outstanding debts you may have or may not have. You may submit the certifications in April 2019 for the June 30, 2019 payment. You must also agree to update me in writing of any changes to your address.

If you decline the relief offered by Defendants, Defendants nevertheless will have satisfied their obligation to the United States pursuant to the Settlement Agreement, and the United States will not seek additional relief on your behalf.

If you have any questions concerning the Settlement Agreement or the Defendants' offer to you, you may contact Sonya Sacks or Louis Whitsett, attorneys for the United States Department of Justice, at (202) 305-7781 or (202) 305-0942.

Sincerely,

Jorge J. Villavicencio, Director
Oficina de Asuntos Legales
Policía de Puerto Rico
P.O. Box 70166
San Juan, Puerto Rico 00936-8166

Enclosures

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
COMMONWEALTH OF PUERTO RICO,)	
PUERTO RICO POLICE BUREAU, and)	
PROMOTIONS EXAMINATION BOARD,)	
)	
Defendants.)	
)	

APPENDIX C

**RELEASE OF CLAIMS AS TO THE
COMMONWEALTH OF PUERTO RICO, PUERTO RICO POLICE BUREAU, AND
PROMOTIONS EXAMINATION BOARD**

I, Jose Bernal Martinez, for and in consideration of accepting the relief to be provided to me pursuant to the provisions of the Settlement Agreement filed in the above-captioned action and on the condition that my future promotions will be handled as set forth in the Settlement Agreement, hereby forever release and discharge the Commonwealth of Puerto Rico, Puerto Rico Police Bureau, and Promotions Examination Board (collectively the “Defendants”), and their current, former and future officials, employees, agents, representatives, successors, and/or assigns of any and all claims, liabilities, demands, damages, and/or causes of action, whether asserted or unasserted, arising from or related to the allegations raised in this action or in United States Department of Labor Veterans' Employment and Training Service ("VETS") Case No. PR-2015-00005-20-R.

I hereby withdraw the referral of my complaint in VETS Case No. PR-2015-00005-20-R

to the Department of Justice and understand that the Department of Justice will close its investigation of this matter.

I understand that the relief to be given to me under the Settlement Agreement does not constitute an admission by the Commonwealth of Puerto Rico, the Puerto Rico Police Bureau, or the Promotions Examination Board of the validity of any claim raised by me or on my behalf. I further understand that the terms and conditions of the Settlement Agreement, any related orders of the Court, or this release do not constitute a finding of wrongdoing or liability by the Commonwealth the Commonwealth, the Puerto Rico Police Bureau, or the Promotions Examination Board under any provision of law.

Nothing in this Release of Claims shall prevent me from filing a subsequent USERRA or any other claim regarding future promotions.

I acknowledge that a copy of the Settlement Agreement has been made available to me.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF,
AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Jose Bernal Martinez

Signed this ____ day of _____, 2018.

Subscribed and sworn to before me this
____ day of _____, 2018.


Notary Public

APPENDIX D

NOTICE LETTER

VIA CERTIFIED MAIL

[Date]

Jose Bernal Martinez


Re: United States of America v. Commonwealth of Puerto Rico et al., Civ. No. _____

Dear Mr. Bernal:

A Settlement Agreement has been entered settling a complaint of discrimination filed by the United States of America (“United States”) against the Commonwealth of Puerto Rico (“Commonwealth”), the Puerto Rico Police Bureau (“PRPB”), and the Promotions Examination Board (“PEB”) (collectively, “Defendants”). A copy of the Settlement Agreement, which was entered and approved by the Court on _____, is enclosed.

Under the terms of the Settlement Agreement entered in the case of *United States of America v. Commonwealth of Puerto Rico et al.*, Civil Action No. _____, you are being offered the following: (1) a monetary credit (against your previous overpayment) in the amount of \$7,083.32, which represents the amount of back pay owed to you, which shall be credited within 30 days of the return of your signed release as described below; (2) your promotion to Sergeant effective as of February 29, 2012; (3) your promotion to Second Lieutenant effective as of February 16, 2016; and (4) the opportunity to take your subsequent promotional examinations.

In order to receive the relief that is offered to you pursuant to the Settlement Agreement, you must complete and return the enclosed Individual Relief and Release of Claims Form (“Release”). The Release must be signed before a Notary Public and returned to the undersigned. If you do not return the Release within thirty (30) days from your receipt of this letter, you will forfeit your rights to any relief under the Settlement Agreement, unless you are able to show good cause as determined by the United States, for your failure to do so. If the back pay owed to you is more than the balance you owe on your overpayment, the remaining monetary payment will be paid to you via certified or bank check, sent by certified mail, on or before June 30, 2019, upon the terms provided by Puerto Rico Act 66 of June 17, 2014 and any other applicable federal or state law. Prior to effectuating payment of the remaining monetary award, you will be required to submit to the PRPD, through its counsel, the official certifications as required by Article 28(i) of Act 66 of June 17, 2014, consisting of the official certifications issued by (1) the Commonwealth’s

Treasury Department, (2) the Administración para el Sustento de Menores (ASUME), and (3) the Centro de Recaudación de Ingresos Municipales (CRIM), showing the status of any outstanding debts you may have or may not have. You may submit the certifications in April 2019 for the June 30, 2019 payment. You must also agree to update me in writing of any changes to your address.

If you decline the relief offered by Defendants, Defendants nevertheless will have satisfied their obligation to the United States pursuant to the Settlement Agreement, and the United States will not seek additional relief on your behalf.

If you have any questions concerning the Settlement Agreement or the Defendants' offer to you, you may contact Sonya Sacks or Louis Whitsett, attorneys for the United States Department of Justice, at (202) 305-7781 or (202) 305-0942.

Sincerely,

Jorge J. Villavicencio, Director
Oficina de Asuntos Legales
Policía de Puerto Rico
P.O. Box 70166
San Juan, Puerto Rico 00936-8166

Enclosures

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
COMMONWEALTH OF PUERTO RICO,)	
PUERTO RICO POLICE BUREAU, and)	
PROMOTIONS EXAMINATION BOARD,)	
)	
Defendants.)	
)	

APPENDIX E

**RELEASE OF CLAIMS AS TO THE
COMMONWEALTH OF PUERTO RICO, PUERTO RICO POLICE BUREAU, AND
PROMOTIONS EXAMINATION BOARD**

I, Angel Martinez Toro, for and in consideration of accepting the relief to be provided to me pursuant to the provisions of the Settlement Agreement filed in the above-captioned action and on the condition that my future promotions will be handled as set forth in the Settlement Agreement, hereby forever release and discharge the Commonwealth of Puerto Rico, Puerto Rico Police Bureau, and Promotions Examination Board (collectively the “Defendants”), and their current, former and future officials, employees, agents, representatives, successors, and/or assigns of any and all claims, liabilities, demands, damages, and/or causes of action, whether asserted or unasserted, arising from or related to the allegations raised in this action or in United States Department of Labor Veterans' Employment and Training Service ("VETS") Case No. PR-2013-00008-20-G.

I hereby withdraw the referral of my complaint in VETS Case No. PR-2013-00008-20-G

to the Department of Justice and understand that the Department of Justice will close its investigation of this matter.

I understand that this release does not cover and is not related to my state court case in the Commonwealth of Puerto Rico under case number GDP2014-0050.

I understand that the relief to be given to me under the Settlement Agreement does not constitute an admission by the Commonwealth of Puerto Rico, the Puerto Rico Police Bureau, or the Promotions Examination Board of the validity of any claim raised by me or on my behalf. I further understand that the terms and conditions of the Settlement Agreement, any related orders of the Court, or this release do not constitute a finding of wrongdoing or liability by the Commonwealth the Commonwealth, the Puerto Rico Police Bureau, or the Promotions Examination Board under any provision of law.

Nothing in this Release of Claims shall prevent me from filing a subsequent USERRA or any other claim regarding future promotions.

I acknowledge that a copy of the Settlement Agreement has been made available to me.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF,
AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Angel Martinez Toro

Signed this _____ day of _____, 2018.

Subscribed and sworn to before me this
_____ day of _____, 2018.

Notary Public

APPENDIX F

NOTICE LETTER

VIA CERTIFIED MAIL

[Date]

Angel Martinez Toro



Re: United States of America v. Commonwealth of Puerto Rico et al., Civ. No. _____

Dear Mr. Martinez:

A Settlement Agreement has been entered settling a complaint of discrimination filed by the United States of America (“United States”) against the Commonwealth of Puerto Rico (“Commonwealth”), the Puerto Rico Police Bureau (“PRPB”), and the Promotions Examination Board (“PEB”) (collectively, “Defendants”). A copy of the Settlement Agreement, which was entered and approved by the Court on _____, is enclosed.

Under the terms of the Settlement Agreement entered in the case of *United States of America v. Commonwealth of Puerto Rico et al.*, Civil Action No. _____, you are being offered the following: (1) a monetary credit award in the amount of \$7,489.00, which represents the amount of back pay owed to you, pursuant to a payment plan that would award you \$7,489.00 on or before June 30, 2019; (2) your promotion to Sergeant effective as of February 29, 2012; (3) your promotion to Second Lieutenant effective as of February 16, 2016; and (4) the opportunity to take your subsequent promotional examinations.

In order to receive the relief that is offered to you pursuant to the Settlement Agreement, you must complete and return the enclosed Individual Relief and Release of Claims Form (“Release”). The Release must be signed before a Notary Public and returned to the undersigned. If you do not return the Release within thirty (30) days from your receipt of this letter, you will forfeit your rights to any relief under the Settlement Agreement, unless you are able to show good cause as determined by the United States, for your failure to do so. Payment to you of the monetary award will be made to you via certified or bank check, sent by certified mail, on or before June 30, 2019, upon the terms provided by Puerto Rico Act 66 of June 17, 2014 and any other applicable federal or state law. Prior to effectuating payment of the monetary award, you will be required to submit to the PRPD, through its counsel, the official certifications as required by Article 28(i) of Act 66 of June 17, 2014, consisting of the official certifications issued by (1) the Commonwealth’s Treasury Department, (2) the Administración para el Sustento de Menores (ASUME), and (3) the Centro de Recaudación de Ingresos Municipales (CRIM), showing the status of any outstanding

debts you may have or may not have. You may submit the certifications in April 2019 for the June 30, 2019 payment. You must also agree to update me in writing of any changes to your address.

If you decline the relief offered by Defendants, Defendants nevertheless will have satisfied their obligation to the United States pursuant to the Settlement Agreement, and the United States will not seek additional relief on your behalf.

If you have any questions concerning the Settlement Agreement or the Defendants' offer to you, you may contact Sonya Sacks or Louis Whitsett, attorneys for the United States Department of Justice, at (202) 305-7781 or (202) 305-0942.

Sincerely,

Jorge J. Villavicencio, Director
Oficina de Asuntos Legales
Policía de Puerto Rico
P.O. Box 70166
San Juan, Puerto Rico 00936-8166

Enclosures