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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

SANTA CRUZ LESBIAN AND GAY
COMMUNITY CENTER, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN JR., *et al.*,

Defendants.

Case No. 5:20-CV-07741-BLF

**SETTLEMENT AGREEMENT AND
RELEASE**

1 This Settlement Agreement is entered into between the parties, Plaintiffs Santa Cruz
2 Lesbian and Gay Community Center d/b/a The Diversity Center of Santa Cruz; Los Angeles LGBT
3 Center; AIDS Foundation of Chicago; B. Brown Consulting, LLC; Bradbury-Sullivan LGBT
4 Community Center; NO/AIDS Task Force d/b/a/ CrescentCare; Services and Advocacy for GLBT
5 Elders; and Dr. Ward Carpenter; and Defendants Joseph R. Biden, Jr., in his official capacity as
6 President of the United States; U.S. Department of Labor; Martin J. Walsh, in his official capacity
7 as Secretary of Labor; Jenny Yang, in her official capacity as Director of Office of Federal Contract
8 Compliance Programs (OFCCP); Office of Management and Budget; Shalanda Young, in her
9 official capacity as Acting Director of the Office of Management and Budget; U.S. Department of
10 Health and Human Services; Xavier Bacerra, in his official capacity as Secretary of Health and
11 Human Services; U.S. Department of Justice; Merrick B. Garland, in his official capacity as United
12 States Attorney General; U.S. Department of Housing and Urban Development; Marcia L. Fudge,
13 in her official capacity as Secretary of Housing and Urban Development; U.S. Department of
14 Veterans Affairs; Dennis R. McDonough, in his official capacity of Secretary of Veterans Affairs;
15 National Endowment for the Humanities; Adam Wolfson, in his official capacity as Acting
16 Chairman for the National Endowment for the Humanities; National Endowment for the Arts; and
17 Ann Eilers, in her official capacity as Acting Chairman for the National Endowment for the Arts
18 (collectively the “Parties”).

19 WHEREAS, Plaintiffs brought this suit “for declaratory and injunctive relief with respect
20 to Executive Order 13950, titled Executive Order on Combating Race and Sex Stereotyping, as
21 violating the First and Fifth Amendments to the United States Constitution,” Compl. ¶ 1;

22 WHEREAS, on December 22, 2020, the Court entered an order holding that Plaintiffs had
23 provided “substantial evidence that the restrictions on speech imposed by Sections 4 and 5 of
24 [Executive Order 13950], in conjunction with the vagueness of those restrictions, has chilled
25 Plaintiffs’ exercise of their free speech rights,” and enjoining all Defendants but President Trump
26 from implementing or enforcing Sections 4 and 5 of Executive Order 13950 in any manner against
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1 any recipient of federal funding by way of contract, subcontract, grant, or sub-grant, including
2 Plaintiffs, ECF No. 81;

3 WHEREAS, on January 20, 2021, President Joseph R. Biden, Jr. signed Executive Order
4 13985, titled “Advancing Racial Equity And Support For Underserved Communities Through The
5 Federal Government,” which was published in the Federal Register at 86 FR 7009 (Jan. 25, 2021),
6 with the full text available at <https://www.federalregister.gov/d/2021-01753>;

7 WHEREAS, President Biden’s Executive Order 13985 revoked President Trump’s
8 Executive Order 13950 of September 22, 2020 (Combating Race and Sex Stereotyping), *see* EO
9 13985, § 10;

10 WHEREAS, Executive Order 13985 also stated that: “The heads of agencies covered by
11 Executive Order 13950 shall review and identify proposed and existing agency actions related to
12 or arising from Executive Order 13950. The head of each agency shall, within 60 days of the date
13 of this order, consider suspending, revising, or rescinding any such actions, including all agency
14 actions to terminate or restrict contracts or grants pursuant to Executive Order 13950, as
15 appropriate and consistent with applicable law,” Executive Order 13985§ 10(b);

16 WHEREAS, on March 2, 2021, the Acting Director of the Office of Management and
17 Budget issued M-21-17 titled “Revocation of Executive Order 13950, M-20-37, and M-20-34,”
18 which “provides detailed instructions for agencies to ensure the complete rollback of agency
19 actions that were taken pursuant to E.O. 13950” and instructs agencies to “return to the pre-E.O.
20 13950 *status quo*”; and

21 WHEREAS, the Parties believe that Executive Order 13985 and the issuance of M-21-17
22 have resolved the substantive claims raised by Plaintiffs in their complaint and to avoid the delay,
23 uncertainty, inconvenience, and expense of further litigation, the Parties have determined to settle
24 the actual and potential disputes between them on the following terms and conditions.

25 THE PARTIES AGREE AS FOLLOWS:

26 1. As stated in Executive Order 13985, the Parties agree that “[a]ffirmatively
27 advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole
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1 of our Government,” and rather than ignoring systemic racism, the federal government “must
2 recognize and work to redress inequities in their policies and programs that serve as barriers to
3 equal opportunity.”

4 2. Because Defendants, through Executive Order 13985 and the issuance of M-21-17,
5 have unequivocally committed to ensuring the complete rollback of Executive Order 13950, and
6 do not intend to implement or enforce Sections 4 and 5 of Executive Order 13950 or substantially
7 similar provisions in the future, the parties agree that the case is moot.

8 3. With Defendants’ stipulation, Plaintiffs will dismiss the above-captioned action
9 with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) according to the
10 attached stipulation.

11 4. The United States will pay Plaintiffs a total of one hundred and forty thousand
12 dollars (\$140,000) in full and complete satisfaction of any claims by Plaintiffs for attorneys’ fees,
13 expenses, and costs in connection with *Santa Cruz Lesbian and Gay Community Center, et al. v.*
14 *Biden, et al.*, 5:20-CV-07741-BLF (N.D. Cal.).

15 5. Plaintiffs waive, release, and forever discharge Defendants from any and all claims
16 related to Executive Order 13950, M-20-37, or M-20-34.

17 6. Nothing in this shall constitute or be construed to constitute an admission of any
18 wrongdoing or liability by Defendants, an admission by Defendants of the truth of any allegations
19 or the validity of any claim asserted in this Action, a concession or admission by Defendants of
20 any fault or omission of any act or failure to act, or a finding that Defendants acted in bad faith.

21 7. This Settlement Agreement is governed by the laws of the United States. For the
22 purposes of construing this Settlement Agreement, it shall be deemed to have been drafted by all
23 Parties to this Settlement Agreement and shall not, therefore, be construed against any Party.

24 8. The undersigned counsel represent and warrant that they are fully authorized to
25 execute this Settlement Agreement on behalf of the parties they represent.

26 9. This Settlement Agreement constitutes the complete agreement between the Parties.
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1 Dated: May 17, 2021

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Acting Assistant Attorney General

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Assistant Branch Directors

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5 /s/ Zachary A. Avallone
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12 Dated: May 19, 2020

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Defendants.

Case No. 5:20-CV-07741-BLF

**STIPULATION OF DISMISSAL WITH
PREJUDICE (Fed. R. Civ. P. 41)**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), and in light of Executive Order 13985 and the issuance of M-21-17, Plaintiffs Santa Cruz Lesbian and Gay Community Center d/b/a The Diversity Center of Santa Cruz; Los Angeles LGBT Center; AIDS Foundation of Chicago; B. Brown Consulting, LLC; Bradbury-Sullivan LGBT Community Center; NO/AIDS Task Force d/b/a/ CrescentCare; Services and Advocacy for GLBT Elders; and Dr. Ward Carpenter; and Defendants Joseph R. Biden, Jr., in his official capacity as President of the United States; U.S. Department of Labor; Martin J. Walsh, in his official capacity as Secretary of Labor; Jenny Yang, in her official capacity as Director of Office of Federal Contract Compliance Programs (OFCCP); Office of Management and Budget; Shalanda Young, in her official capacity as Acting Director of the Office of Management and Budget; U.S. Department of Health and Human Services; Xavier Bacerra, in his official capacity as Secretary of Health and Human Services; U.S. Department of Justice; Merrick B. Garland, in his official capacity as United States Attorney General; U.S. Department of Housing and Urban Development; Marcia L. Fudge, in her official capacity as Secretary of Housing and Urban Development; U.S. Department of Veterans Affairs; Dennis R. McDonough, in his official capacity of Secretary of Veterans Affairs; National Endowment for the Humanities; Adam Wolfson, in his official capacity as Acting Chairman for the National Endowment for the Humanities; National Endowment for the Arts; and Ann Eilers,

1 in her official capacity as Acting Chairman for the National Endowment for the Arts, having now
2 settled this case, hereby stipulate to the dismissal of the above-captioned case, with prejudice.

3
4 Dated: May 19, 2021

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Acting Assistant Attorney General

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CARLOTTA P. WELLS
Assistant Branch Directors

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15 Dated: May 19, 2020

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