

IN THE MATTER OF GRIEVANCE/ARBITRATION BETWEEN:

NATIONAL FEDERATION OF FEDERAL)		
EMPLOYEES (NFFE) COUNCIL)		
Union,)		FLSA Overtime Grievance
v.)		Arbitrator:
U.S. DEPARTMENT OF)		Ira Jaffe, Esq.
VETERANS AFFAIRS,)		
Agency.)		May 7, 2013

LIABILITY SETTLEMENT AGREEMENT AND ORDER

This Settlement Agreement (Agreement) is the result of negotiations between the National Federation of Federal Employees VA Council of Consolidated Locals ("NFFE" or "Union") and the US Department of Veterans Affairs ("VA" or "Agency") (together, the "Parties").

On or about January 29, 2009, NFFE filed a National Grievance ("Grievance") on behalf of all VA employees in the NFFE bargaining unit alleging that the Agency violated the Fair Labor Standards Act ("FLSA") by failing to properly designate NFFE BUEs as FLSA non-exempt and failing to pay NFFE BUEs properly under the FLSA, among other claims.

The Parties engaged in hearings and settlement negotiations in an effort to narrow the scope of the unresolved issues in the Grievance. The Parties partially resolved those issues and have settled the liability ("FLSA designation") portion of the Grievance on the terms and conditions set forth in this Agreement:

Coverage

This Agreement covers all VA employees in the NFFE bargaining unit ("NFFE BUEs").

Redesignation as Non-Exempt – Appendix A

The Agency agrees to change the FLSA designation of NFFE BUEs encumbering the positions and grades listed in **Appendix A**, who are or were previously designated as FLSA exempt, to FLSA non-exempt within thirty (30) days of the effective date of this Agreement. The Agency agrees to provide the Union with a PAID report that lists the updated FLSA designation of the NFFE BUEs encumbering the positions and grades listed in **Appendix A** within fourteen (14) business days of the redesignation or, if

already redesignated, within fourteen (14) business days of the effective date of this Agreement.

Continuation as Exempt – Appendix B

The Union agrees that all currently designated FLSA exempt NFFE BUEs in the positions and grades listed in **Appendix B** will not have their FLSA designation changed as a result of this Agreement.

Damages, Attorney Fees

This Agreement does not address damages for any NFFE BUEs, other than to provide for a withdrawal and waiver of claims for the NFFE BUEs listed in **Appendix C** and **Appendix D** as set forth in detail below. The Parties agree that the issues of damages, costs, and attorney fees have not yet been resolved and will be addressed by the Parties separate from this Agreement.

Withdrawal & Waiver of Claims – Appendix C & Appendix D

Appendix C lists NFFE BUEs who are appointed under 38 U.S.C. § 7401(1).

Appendix D lists NFFE BUEs for whom the Union no longer wishes to pursue overtime claims.

By execution of this Agreement, the Union hereby voluntarily withdraws the Grievance (FMCS 090610-02909-A) and waives any and all actions, claims, complaints, grievances, appeals or proceedings of whatever nature arising from the allegations contained in the Grievance up to the effective date of this Agreement with respect to all of the NFFE BUEs encumbering the positions and grades listed in **Appendix C** and **Appendix D**, while encumbering said graded positions. The Union agrees to promptly provide any document or take other action necessary to effectuate the withdrawal or dismissal of the Grievance with respect to the NFFE BUEs encumbering the positions and grades listed in **Appendix C** and **Appendix D**.

Authority

The Parties stipulate that the signatories to this Agreement have the full authority to enter into this Agreement and to make the agreements, obligations and considerations contained herein.

Stipulations

The Parties further stipulate and agree that:

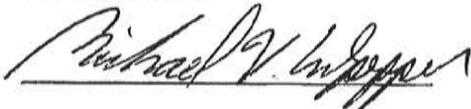
- a. The Parties have entered into this Agreement freely and voluntarily.

- b. This Agreement does not constitute an admission of guilt, fault or wrongdoing by either Party.
- c. The obligations of the Parties specified above constitute consideration sufficient to render this Agreement enforceable by either Party.
- d. This Agreement shall not serve as precedent for resolving any other complaints, grievances, appeals or actions that may be filed, other than for non-compliance with the terms herein.
- e. This Agreement constitutes the entire understanding between the Parties regarding the resolution and settlement of the FLSA designation component of the Grievance
- f. Either Party may submit this Agreement as evidence of the other Party's waiver of any and all actions, claims, complaints, grievances, appeals or proceedings of whatever nature arising from the allegations contained in the Grievance that are resolved herein.
- g. Either Party may bring a claim in the form of a grievance arising by reason of breach of any term of this Agreement.
- h. This Agreement may not be modified except by a written agreement signed by the undersigned herein.

Effective Date

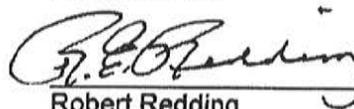
This Agreement is effective as of May 7, 2013.

For the Agency:

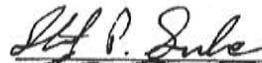


Department of Veterans Affairs

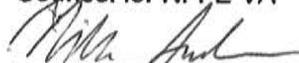
For the Union:



Robert Redding
NFFE VA Council President



Stefan Sütich, Esq.
Counsel for NFFE VA



Michael J. Snider, Esq.
Counsel for the Union

Approved and So Ordered:

Ira Jaffe
Arbitrator / Impartial Mediator

APPENDIX A

POSITION DESCRIPTION	OST	GRADE
HEALTH SCIENCE SPECIALIST	601	5
MEDICAL TECHNOLOGIST	644	5
GENERAL ENGINEER	801	5
INDUSTRIAL ENGINEER	896	5
ADDICTION THERAPIST	101	7
SOCIAL WORKER ASSOCIATE	187	7
ACCOUNTANT	510	7
ACCOUNTANT INTERN	510	7
DIETITIAN	630	7
OCCUPATIONAL THERAPIST	631	7
KINESIOTHERAPIST	635	7
RECREATION THERAPIST	638	7
MEDICAL TECHNOLOGIST	644	7
ORTHOTIST-PROSTHETIST	667	7
GENERAL ENGINEER	801	7
SOCIAL SERVICE REP	187	8
REGIST RESPIRATORY THERP	601	8
DENTAL HYGIENIST	682	8
ADDICTION THERAPIST	101	9
READJUST COUNSEL THERPST	101	9
VOCATION REHAB COUNSELOR	101	9
SOCIAL WORKER	185	9
SOCIAL WORKER ASSOCIATE	187	9
MICROBIOLOGIST	403	9
ACCOUNTANT	510	9
SYSTEMS ACCOUNTANT	510	9
AUDITOR	511	9
BLIND REHAB SPEC (INSTR)	601	9
CYTOLOGIST	601	9
HEALTH SCIENCE SPECIALIST	601	9
HISTOTECHNOLOGIST	601	9
NUCLEAR MED TECHNOLOGIST	601	9
REGIST RESPIRATORY THERP	601	9
RESEARCH HEALTH SCIENTIST	601	9
DIETITIAN	630	9
OCCUPATIONAL THERAPIST	631	9

KINESIOTHERAPIST	635	9
RECREATION THERAPIST	638	9
MEDICAL TECHNOLOGIST	644	9
PHARMACIST, STAFF	660	9
AUDIOLOGIST	665	9
GRAD SPEECH-LANG PATH	665	9
SPEECH PATHOLOGIST	665	9
DENTAL HYGIENIST	682	9
INDUSTRIAL HYGIENIST	690	9
GENERAL ENGINEER	801	9
BIOMEDICAL ENGINEER	858	9
LIBRAR (BILOG & MED SCI)	1410	9
LIBRARIAN	1410	9
VOCATIONAL REHAB SPECLST	1715	9
ACCOUNTANT	510	10
NUCLEAR MED TECHNOLOGIST	601	10
KINESIOTHERAPIST	635	10
CREATIVE ARTS THER(MUSIC)	638	10
RECREATION THERAPIST	638	10
MEDICAL TECHNOLOGIST	644	10
SOCIAL WORKER	185	11
RESEARCH BIOLOGIST	401	11
MICROBIOLOGIST	403	11
BLIND REHAB SPEC(SERVICE)	601	11
CYTOTECNOLOGIST	601	11
HEALTH SCIENCE SPECIALIST	601	11
NUCLEAR MED TECHNOLOGIST	601	11
RESEARCH HEALTH SCIENTIST	601	11
DIETITIAN	630	11
KINESIOTHERAPIST	635	11
RECREATION THERAPIST	638	11
MEDICAL TECHNOLOGIST	644	11
PHARMACIST	660	11
PHARMACIST (PROGRAM SPEC)	660	11
PHARMACIST(CLINICAL SPEC)	660	11
PHARMACIST, STAFF	660	11
ORTHOTIST-PROSTHETIST	667	11
ORTHOTIST-PROSTHETIST	667	11
GENERAL ENGINEER	801	11
VOCATIONAL REHAB SPECLST	1715	11

DIETITIAN	630	12
VOCATIONAL REHAB SPECLST	1715	12

APPENDIX B

POSITION DESCRIPTION	OST	GRADE
GRADUATE PHYS. THERAPIST	633	0
PHYSICAL THERAPIST	633	9
OCCUPATIONAL THERAPIST	631	10
PHYSICAL THERAPIST	633	10
CHAPLAIN	60	11
SOC SCIENCE PROGRAM SPEC	101	11
ADDICTION THERAPIST	101	11
MARRIAGE FAMILY THERAPIST	101	11
READJUST COUNSEL THERPST	101	11
VOCATION REHAB COUNSELOR	101	11
CLINICAL PSYCHOLOGIST	180	11
PSYCHOLOGIST	180	11
PSYCHOLOGIST(REASSOC)	180	11
RESEARCH PSYCH(CLIN INVS)	180	11
RESEARCH PSYCHOLOGIST	180	11
RESEARCH SOCIAL WORKER	185	11
SOCIAL WORK MASTERS	185	11
SOCIAL WORK PROG SPEC	185	11
PHYSIOLOGIST	413	11
ACCOUNTANT	510	11
OCCUPATIONAL THERAPIST	631	11
PHYSICAL THERAPIST	633	11
PHARMACY SERVICE, CHIEF	660	11
PHARMACY SVC, ASST CHIEF	660	11
PHARMACIST SUPV (OUTPT)	660	11
AUDIOL(SPEECH PATHOLOGST)	665	11
AUDIOLOGIST	665	11
AUDIOL-SPEECH PATHOLOGIST	665	11
SPEECH PATHOLOGIST	665	11
INDUSTRIAL HYGIENIST	690	11
BIOMEDICAL ENGINEER	858	11
RESEARCH CHEMIST	1320	11
LIBRAR (BILOG & MED SCI)	1410	11
LIBRARIAN	1410	11
LIBRARIAN (MED SCIENCES/	1410	11
CHAPLAIN	60	12
LIC PROF MEN HLTH COUNSEL	101	12

SOC SCIENCE PROGRAM SPEC	101	12
VOCATION REHAB COUNSELOR	101	12
CLINICAL PSYCHOLOGIST	180	12
COUNSELING PSYCHOLOGIST	180	12
GRADUATE PSYCHOLOGIST	180	12
PSYCHOLOGIST	180	12
PSYCHOLOGIST(REASSOC)	180	12
RESEARCH PSYCHOLOGIST	180	12
SOCIAL WORK PROG SPEC	185	12
SOCIAL WORKER	185	12
SOCIAL WORKER (CONSULT)	185	12
RESEARCH BIOLOGIST	401	12
RESEARCH MICROBIOLOGIST	403	12
RESEARCH PHYSIOLOGIST	413	12
BLIND REHAB SPEC (INSTR)	601	12
BLIND REHAB SPEC(SERVICE)	601	12
HEALTH SCIENCE SPECIALIST	601	12
RESEARCH HEALTH SCIENTIST	601	12
MED OFFCR (DISABIL EVAL)	602	12
MED OFFCR (GP-DISAB EVAL)	602	12
OCCUPATIONAL THERAPIST	631	12
PHYSICAL THERAPIST	633	12
MEDICAL TECHNOLOGIST	644	12
PHARMACIST	660	12
PHARMACIST (PROGRAM SPEC)	660	12
PHARMACIST SUPV (INPT)	660	12
PHARMACIST SUPV (OUTPT)	660	12
PHARMACIST(CLINICAL SPEC)	660	12
PHARMACIST, STAFF	660	12
PHARMACY MANAGER (CLINICAL)	660	12
AUDIOL(SPEECH PATHOLOGST)	665	12
AUDIOLOGIST	665	12
AUDIOLOGIST-SPEECH PATH	665	12
SPEECH PATHOLOGIST	665	12
ORTHOTIST-PROSTHETIST	667	12
ORTHOTIST-PROSTHETIST	667	12
INDUSTRIAL HYGIENIST	690	12
GENERAL ENGINEER	801	12
ARCHITECT	808	12

ENVIRONMENTAL ENGINEER	819	12
MECHANICAL ENGINEER	830	12
COMPUTER ENGINEER	854	12
BIOMEDICAL ENGINEER	858	12
CLINICAL ENGINEER	858	12
HEALTH PHYSICIST	1306	12
LIBRARIAN (MED SCIENCES/	1410	12
SOC SCIENCE PROGRAM SPEC	101	13
SOCIAL SCIENCE PROG COORD	101	13
VOCATION REHAB COUNSELOR	101	13
CLINICAL PSYCHOLOGIST	180	13
CLINICL RESRCH PSYCHOLGST	180	13
CQUNSELING PSYCHOLOGIST	180	13
PSYCHOLOGIST	180	13
PSYCHOLOGIST(RE ASSOC)	180	13
SOCIAL WORKER	185	13
RESEARCH BIOLOGIST	401	13
MICROBIOLOGIST	403	13
RESEARCH MICROBIOLOGIST	403	13
PHYSIOLOGIST	413	13
RESEARCH PHYSIOLOGIST	413	13
HEALTH SCIENCE SPECIALIST	601	13
RESEARCH HEALTH SCIENTIST	601	13
PHARMACIST	660	13
PHARMACIST (PROGRAM SPEC)	660	13
PHARMACIST SUPV (OUTPT)	660	13
PHARMACIST(CLINICAL SPEC)	660	13
PHARMACIST, STAFF	660	13
PHARMACY SVC, ASST CHIEF	660	13
AUDIOLOGIST	665	13
SPEECH PATHOLOGIST	665	13
GENERAL ENGINEER	801	13
MECHANICAL ENGINEER	830	13
ELECTRICAL ENGINEER	850	13
BIOMEDICAL ENGINEER	858	13
PHYSICAL SCIENTIST	1301	13
HEALTH PHYSICIST	1306	13
PHYSICIST	1310	13
CHEMIST	1320	13
RESEARCH CHEMIST	1320	13

MATHEMATICAL STATISTICIAN	1529	13
CLINICAL PSYCHOLOGIST	180	14
SOCIAL WORKER	185	14
RESEARCH BIOLOGIST	401	14
RESEARCH PHYSIOLOGIST	413	14
RESEARCH HEALTH SCIENTIST	601	14
PHARMACIST(CLINICAL SPEC)	660	14
PHARMACY SVC, ASST CHIEF	660	14
VETERINARY MEDICAL OFFICR	701	14
HEALTH PHYSICIST	1306	14
CHEMIST	1320	14
RESEARCH CHEMIST	1320	14
RESEARCH BIOLOGIST	401	15
RESEARCH PHYSIOLOGIST	413	15
SCIENCE ADVISOR	601	15
RESEARCH CHEMIST	1320	15

APPENDIX C

POSITION DESCRIPTION	OST	GRADE
ADV PRACTICE NURSE(PRIME)	610	0
GRADUATE VOCATIONAL NURSE	620	0
PODIATRY RESIDENT	668	0
NURSE ANESTHETIST	605	1
GRADUATE NURSE	610	1
NURSE	610	1
NURSE ANESTHETIST	605	2
NURSE	610	2
NURSE ANESTHETIST	605	3
NURSE	610	3
NURSE	610	4
VOCATIONAL NURSE	620	4
EFDA (DENTAL ASSISTANT)	601	6
PHYSICIAN ASSISTANT	603	9
PHYSICIAN ASSISTANT	603	11
PHYSICIAN ASSISTANT	603	12
CHIROPRACTOR	604	12
OPTOMETRIST	662	12
OPTOMETRIST (CLINICAL)	662	12
PHYSICIAN ASSISTANT	603	13
OPTOMETRIST	662	13
PODIATRIST	668	13
PHYSICIAN	602	14
PHYSICIAN (REGULAR FT)	602	14
OPTOMETRIST	662	14
OPTOMETRIST (CLINICAL)	662	14
PODIATRIST	668	14
DENTIST (REGULAR FT)	680	14
PHYSICIAN	602	15
PHYSICIAN (DIRECTOR)	602	15
PHYSICIAN (OSTEOPATH)	602	15
PHYSICIAN (REGULAR FT)	602	15
OPTOMETRIST	662	15
PODIATRIST	668	15
DENTIST	680	15
DENTIST (REGULAR FT)	680	15

APPENDIX D

POSITION DESCRIPTION	OST	GRADE
SOCIAL WORK TRNEE 1ST LEV	185	0
SOCIAL WORK TRNEE 2ND LEV	185	0
GRADUATE PHARMACIST	660	0
PHARMACY RESIDENT	660	0
STDNT NURSE TECH (VALOR)	699	0
NURSING ASSISTANT	621	5
PHARMACY TECHNICIAN	661	5
DIAGNSTC RADIOLOGIC TECH	647	6
PHARMACY AID	661	6
PHARMACY TECHNICIAN	661	6
DENTAL ASSISTANT	681	6
PROGRAM SUPPORT ASSISTANT	303	7
PHYSICAL THERAPY ASST	636	7
DIAGNSTC RADIOLOGIC TECH	647	7
CONTRACT SPECIALIST	1102	7
DIAG RAD TECH (COMPT TOM)	647	8
DIAGNOSTIC RADIOLOGIC TCH	647	8
MED INST TECH (DIAG ULTRA	649	8
MED INST TECH (ECHOCARDIO	649	8
MED INST TECH (PULM FUNCT	649	8
MED INST TECH(CARDIAC CA)	649	8
MED INST TECH(SLEEP TECH)	649	8
MED REC TECH (CANCER REG)	675	8
PSYCHOLOGY TECHNICIAN	181	9
MEDICAL ADMIN SPECIALIST	301	9
PROGRAM SPECIALIST	301	9
ADMINISTRATIVE OFFICER	341	9
MANAGEMENT & PROG ANALYST	343	9
BIOLOGICAL SCIENCE TECH	404	9
HEALTH TECHNICIAN	640	9
DIAG RAD TECH (COMPT TOM)	647	9
DIAG RAD TECH (MRI)	647	9
DIAGNOSTIC RADIOLOGIC TCH	647	9
THERAPEUTC RADIOLOGIC TCH	648	9
MED INST TECH (DIAG ULTRA	649	9
MED INST TECH(CARDIAC CA)	649	9
MED INST TECH(EEG)	649	9
MED RECORDS ADMIN SPEC	669	9

CONTRACT SPECIALIST	1102	9
THERAPEUTIC RADIOLOGIC TECH	648	10
MED INST TECH (PULM FUNCT)	649	10
MEDICAL RECORDS ADMIN	669	10
EDUCATION TECHNICIAN	1702	10
PERSONNEL SECURITY SPEC	80	11
PATIENT REPRESENTATIVE	301	11
ADMINISTRATIVE OFFICER	341	11
MANAGEMENT & PROG ANALYST	343	11
PROGRAM ANALYST	343	11
BUDGET ANALYST	560	11
DIAG RAD TECH (QUAL MGMT)	647	11
DIAGNOSTIC RADIOLOGIC TECH	647	11
MED RECORDS ADMIN SPEC	669	11
HEALTH SYSTEM SPECIALIST	671	11
HLTH SYS SPEC /SA/DIR/	671	11
CONTRACT SPECIALIST	1102	11
TRAINING SPECIALIST	1712	11
IT SPEC (NETWORK SRVCS)	2210	11
SAFETY & OCCUP HLTH MGR	18	12
VOLUNTARY SVCS SPECIALIST	301	12
MANAGEMENT & PROG ANALYST	343	12
PROGRAM ANALYST	343	12
BUDGET ANALYST	560	12
THER RAD TECH(DOSIMETRST)	648	12
HEALTH SYSTEM SPECIALIST	671	12
CONTRACT SPECIALIST	1102	12
PROCUREMENT ANALYST	1102	12
INFORMATION TECH SPEC	2210	12
IT SPECIALIST	2210	12
EMPLOYMENT SPECIALIST	301	13
PROGRAM MANAGEMT OFFICER	340	13
PROGRAM ANALYST	343	13
ACQUISIT & UTILIZAT SPEC	1101	13
CONTRACT SPECIALIST	1102	13
INFORMATION TECH SPEC	2210	13
IT SPECIALIST	2210	13
PROGRAM MANAGEMT OFFICER	340	14