

DECLARATION AND PERMANENT INJUNCTION

The July 21, 2020 Memorandum on Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census (the “Presidential Memorandum”), announcing that it is the policy of the United States to exclude from the apportionment base aliens who are not in a lawful immigration status, is DECLARED unlawful as an *ultra vires* violation of Congress’s delegation of authority to conduct the decennial census and apportionment calculation pursuant to 2 U.S.C. § 2a and 13 U.S.C. § 141.

The Secretary of Commerce in his official capacity, the Director of the Census Bureau in his official capacity, the U.S. Department of Commerce, and the U.S. Census Bureau, and any successors to those offices, together with their agents, servants, employees, attorneys, and other persons who are in active concert or participation with the foregoing, *see* Fed. R. Civ. P. 65(d)(2), are PERMANENTLY ENJOINED from including in the Secretary’s report to the President pursuant to Section 141(b) any information permitting the President to exercise the President’s discretion to carry out the policy set forth in section 2 of the Presidential Memorandum — that is, any information concerning the number of aliens in each State who are not in a lawful immigration status under the Immigration and Nationality Act.

SO ORDERED.

Dated: September 10, 2020
New York, New York

_____/s/_____
RICHARD C. WESLEY
United States Circuit Judge

_____/s/_____
PETER W. HALL
United States Circuit Judge

_____/s/_____
JESSE M. FURMAN
United States District Judge