



In the Matter of

**ADMINISTRATOR, WAGE AND
HOUR DIVISION, UNITED STATES
DEPARTMENT OF LABOR,**

**ARB CASE NO. 99-046
(Formerly ARB 96-156)**

ALJ CASE NO. 94-FLS-22

PLAINTIFF

DATE: June 29, 1999

v.

**BAYSTATE ALTERNATIVE STAFFING,
INC., ABLE TEMPS REFERRALS, INC.,
HAROLD WOODS, WILLIAM "BILL" WOODS,
AND MARLENE WOODS, all d/b/a
ALTERNATIVE STAFFING,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER APPROVING CONSENT FINDINGS

This case arose when the Department of Labor's Wage and Hour Administrator assessed a \$150,000 civil monetary penalty against Respondents Baystate Alternative Staffing, Inc., Able Temps Referral, Inc. and Harold, William and Marlene Woods (d/b/a Alternative Staffing) for alleged willful violations of the overtime compensation provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.* After Department of Labor administrative review, we affirmed the penalty. *Reich v. Baystate Alternative Staffing*, Case No. 94-FLS-22, ARB Fin. Dec. and Ord. (Dec. 19, 1996). The decision was appealed first to the district court, and subsequently to the United States Court of Appeals for the First Circuit. The Court of Appeals issued a decision on December 30, 1998, remanding this case to the district court with instructions that it, in turn, remand this case to the Secretary of Labor for further proceedings consistent with its decision. *Baystate Alternative Staffing, Inc. v. Herman*, 163 F.3d 668 (1st Cir. 1998). The case is now before the Administrative Review Board pursuant to the court's remand.

On June 25, 1999, the parties submitted "Consent Findings" to the Board, which are intended to fully resolve the matters at issue. In the "Consent Findings", the Respondents certify

that they are presently, and will remain, in compliance with FLSA section 7. In reliance upon the Respondents' certification, the Complainant Department of Labor agrees to modify the previously issued notice of penalty against the Respondents jointly, reducing the assessment of civil money penalties from \$150,000 to \$35,000. The "Consent Findings" further provide that if the Respondents do not immediately pay the penalty, the Complainants will restore the amount of the penalty to the \$150,000 originally proposed. However, upon the Respondents' motion, should the Board find that the failure to pay was not the Respondents' fault, the Complainant agrees that this matter may be restored for further proceedings before the Board, as the First Circuit previously directed. Both parties further waive any claim to costs or attorneys fees.

Pursuant to 29 C.F.R. § 580.16 (1998), the parties' "Consent Findings" are hereby **APPROVED** and are hereby incorporated by reference and made a part of this decision and order. In light of the agreement among the parties, this case is dismissed.

SO ORDERED.

PAUL GREENBERG

Chair

E. COOPER BROWN

Member

CYNTHIA L. ATTWOOD

Member