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In the Matter of :
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ADMINISTRATOR, UNITED STATES, :
DEPARTMENT OF LABOR, :
WAGE AND HOUR DIVISION :
Complainant :
 :
v. :
 :
ALDEN MANAGEMENT SERVICE, INC. :
Respondent :
.....

Dated: November 19, 1999

Case No.: 1996-ARN-3

Richard A. Kordys, Esq.
Chicago, Illinois
For the Complainant

Neil P. Stern, Esq.
Chicago, Illinois
For the Respondent

Before: JEFFREY TURECK
Administrative Law Judge

DECISION AND ORDER

This case arises under the Immigration Nursing Relief Act of 1989 ("INRA" or "Act"), 8 U.S.C. Section 1101 *et seq.* as amended, and the Secretary of Labor's regulations at 20 C.F.R. Part 655 Subparts D and E (cross-referenced from 29 C.F.R. Part 504) . On November 3, 1998, I issued an *Interlocutory Order Granting in Part Administrator's Motion for Summary Judgment*. That order, which adjudicated all of the issues in the case other than the amount of back wages due and civil penalties to be paid, is incorporated into this decision and is attached to it as Appendix 1.

In regard to the amount of back wages due, the parties previously had stipulated to the Administrator's back wage calculations. However, in my order, I found that AMS is not liable for back wages prior to April 1994, and the Administrator's calculations included back wages prior to April 1994. Rather than try to recalculate the back wages due by myself, I gave the parties the

opportunity to work out new stipulations. Although it took them longer than I (and probably they) had anticipated, the parties have entered into the following stipulation:

Based on the Court's holding on the limitations of actions issue that AMS, Inc. is responsible for the full back wage amounts computed due subsequent to April, 1994, the parties stipulate that if the Court's ruling with respect to this issue is upheld, the wages earned by and due to non-immigrant nurses after April, 1994, total \$607,345.87 which amount is reflected on Exhibit AA - Amended Summary of Unpaid Wages - WH 56 and on Exhibit BB - Amended Wage Transcription Forms.

Complainant's and Respondent's Joint Stipulations ("Joint Stipulations") at ¶8. The parties' stipulation is accepted; and Exhibit AA, the *Amended Summary of Unpaid Wages - [Form] WH 56* listing the amount of back wages due to each non-immigrant nurse, is incorporated into this decision and is attached to it as Appendix 2.

In addition, the parties indicated that they wanted the opportunity to reach an agreement regarding the civil money penalty to be imposed if respondent is found to have violated the Act, and they have done so. Their stipulation on this issue is as follows:

The parties agree the civil money penalty assessed against AMS, Inc. by the Administrator in the Determination Letter shall be amended to \$40,000.00. AMS, Inc. agrees to pay this penalty amount if the decision with respect to its liability for the violations found by the Court's Order is upheld after concluding its legal appeals.

Joint Stipulations at ¶6. I likewise accept this stipulation.

There being no remaining unresolved issues in this case, the following *Order* shall issue:

ORDER

IT IS ORDERED that Alden Management Service, Inc. shall pay:

1. Back wages totaling \$607,345.87 as set out in Appendix 2 to this decision; and
2. A civil money penalty of \$40,000.00 to the Wage and Hour Division of the Department of Labor.

JEFFREY TURECK
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: Any interested party desiring review of this Decision and Order must file a petition with the Administrative Review Board, 200 Constitution Ave., N.W. Room S-4309, Washington, D.C. 20210 in time to be received by that Board within 30 days of date of this *Decision and Order*. The petition shall also be served on all parties and the presiding Administrative Law Judge. See 20 CFR §655.445 (cross referenced from 29 CFR Part 504); 61 Fed. Reg. 19978 (1996).