



**Issue Date: 05 November 2004**

Case No.: 2004-LCA-8

In the Matter of:

ADMINISTRATOR WAGE AND HOUR DIVISION  
Prosecuting Party

v.

CRUNCHY TECHNOLOGIES, INC,  
Respondent,

**ORDER APPROVING CONSENT FINDINGS**

This proceeding arises under the H1-B provisions of the Immigration and Nationality Act ("INA"), and the applicable regulations issued thereunder at 29 C.F.R. Sections 507 *et seq.*, and 20 C.F.R. Part 655, Subparts H and I.

By letter dated November 17, 2003, the Wage Hour Division of the United States Department of Labor (DOL) notified Crunchy Technologies, Inc. that it had violated the aforementioned Acts and regulations. Respondents timely requested a hearing, and the matter was referred to the Office of Administrative Law Judges for hearing.

On November 4, 2004, DOL and Respondent submitted executed Consent Findings, reflecting that the parties have negotiated a settlement of all disputed claims. The parties request review of the agreement and an order disposing of this proceeding.

The Respondent was charged with failing to pay employees the required wage rate for time periods as listed by DOL on a Summary of Unpaid Wages (Exhibit A to Consent Findings). In the Consent Findings, the Respondent has agreed that it failed to pay wages at the required rate to the employees listed on the Summary of Unpaid Wages. Respondent has agreed that it is obligated to pay back wages in the total amount of \$746,362.79 to the listed employees. DOL and the Respondent have agreed that these back wages shall be paid in installments over a period of 79 months, as set out in Exhibit B to the Consent Findings. The payments shall be made by check, and the Respondent shall forward to the DOL copies of cancelled checks for each payment.

The Respondent agrees to provide biannual certified financial statements or balance sheets to DOL in February and August of each year in which there is an outstanding balance on back wages owed to any employee listed on the Summary of Unpaid Wages. DOL has agreed to withdraw the allegation of willfulness in the Notice of Determination, and to withdraw its request for civil money payments. In the event that the Respondent is not able to distribute back wages to any employee or his or her personal representative, the Respondent will remit a cashier's or certified check payable to "Wage-Hour, Labor" in the amount of back wages due. After three years, any monies that could not be distributed shall be deposited with the Treasurer of the United States as miscellaneous receipts.

Jurisdiction is retained by the Office of Administrative Law Judges, and enforcement proceedings for violation of the Consent Findings and Order may be initiated upon filing a motion with the Office of Administrative Law Judges for an order of enforcement and sanctions. Each party will bear its own fees and expenses incurred with this proceeding including, but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended. Respondent shall comply with 20 C.F.R. § 655.731(c) in the future.

These Consent Findings and Order shall constitute the final Administrative Order in this case, and shall have the same force and effect as an Order made after a full hearing. The entire record forming the basis on which this Order is entered shall consist of the Complaint and the Consent Findings. The parties hereby waive all further procedural steps between themselves before the Administrative Law Judge, and any right to contest the validity of these findings.

Review of the Consent Findings shows that the agreement justly resolves all issues in the above-captioned matter, and I hereby **ORDER** that the Consent Findings are **APPROVED** in full and incorporated herein. The Consent Findings shall constitute my findings of fact and conclusions of law and shall constitute full, final and complete adjudication of this proceeding.

Accordingly, **IT IS HEREBY ORDERED** that:

1. This Order shall have the same force and effect as an Order after full hearing;
2. The entire record upon which this order is based shall consist solely of the Order of Reference and the Consent Findings;
3. Any further procedural steps before this Office are waived; and
4. Any rights to challenge or contest the validity of this Order entered into in accordance with this agreement are waived.

SO ORDERED.

A

LINDA S. CHAPMAN  
Administrative Law Judge