

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 12 October 2006**

CASE NO.: 2006-LCA-00016

In the Matter of

ADMINISTRATOR, WAGE AND HOUR DIVISION,  
Prosecuting Party,

v.

In Re HER STYLE, INC.,  
Respondent.

**DECISION AND ORDER APPROVING CONSENT FINDINGS**

This matter arises under the Labor Condition Application provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. §1101 and §1182 (“the Act”), and the implementing regulations set forth at 20 C.F.R. Part 655, et seq. Under the Act, an employer may hire nonimmigrant workers from “specialty occupations” to work in the United States for prescribed periods of time. 8 U.S.C. §1101(a)(15)(H)(i)(b); 20 C.F.R. §655.700. Such workers are issued H-1B visas by the Department of State upon approval by the Immigration and Naturalization Service (or “INS”). 20 C.F.R. §655.705(b). In order for the H-1B visa to be issued, the employer must file a Labor Condition Application (or “LCA”) with the Department of Labor, and detail, inter alia, the wage rate and working conditions for the H-1B employee. 8 U.S.C. §1182(n)(1)(D); 20 C.F.R. §§655.731 and 732. Once the Department of Labor certifies the LCA, INS can then approve the nonimmigrant’s H-1B visa petition. 8 U.S.C. §1101(a)(15)(H)(i)(b); 20 C.F.R. §655.700(a)(3).

Workers hired under H-1B visas must pay prevailing wages pursuant to 20 C.F.R. §655.805(a)(2). Employers are required to comply with reporting requirements set forth at 20 C.F.R. §§655.730 and 655.731; notice posting requirements set forth at 20 C.F.R. §655.805(a)(5); and record retention requirements of 20 C.F.R. §§655.731(b), 655.738(e), 655.760(c).

In the instant matter, Her Style Inc. (“Respondent”) secured an H-1B visa for employee Sridhar Srivilli (“Employee”) to serve in the position of Controller. In its labor condition application, Respondent agreed to pay the higher of the prevailing wage of \$62,421.00 per year, or another, actual wage, for the period July 31, 2003 through July 31, 2004. A similar agreement was entered by Respondent respecting its employment of Employee for the following year, through July 31, 2005, at a prevailing wage of \$70,304.00.

In a Determination issued on March 23, 2006, the Administrator of the Wage and Hour Division ("Administrator") concluded that Respondent was in violation of the Act by failing to pay required wages, and further concluded that back wages were due, and ordered payment thereof. The Administrator further ordered Respondent to comply with regulations regarding documentation of actual wage and ordered future compliance with notice posting and reporting requirements. Respondent disputed the findings and requested a formal hearing before the Office of Administrative Law Judges ("OALJ"). The matter was assigned to me for hearing, which was scheduled, and subsequently continued upon joint motion of the parties.

On October 6, 2006, the parties filed Consent Findings which were signed by both parties and a request was made that an Order be issued to dispose of this case.

The parties' agreement may be summarized as follows: the Respondent agreed to pay back wages in the amount of \$22,651.57 to Employee on or before September 28, 2006. The back wages were to be remitted, less appropriate deductions for taxes and social security withholding, by cashier's or certified check made out in the name of the Employee. A copy of a cashier's check dated September 12, 2006, was attached to the parties' agreement. Accordingly, the terms of the settlement have been met.

Upon review of the record, the Consent Findings are approved. The agreement constitutes full and final resolution of this matter. IT IS ORDERED that:

1. This Order shall have the same force and effect as an Order made after a full hearing;
2. The entire record upon which this Order is based shall consist solely of the Notice of Determination and the Stipulated Consent Findings and Order;
3. Any further procedural steps before the Office of Administrative Law Judges are hereby waived;
4. All rights to challenge or contest the validity of this Order which has been entered into in accordance with the Consent Findings are hereby waived, and;
5. Each party agrees to bear any costs that it incurred in relation to the instant proceeding.

IT IS FURTHER ORDERED that this matter is hereby dismissed with prejudice. This Decision constitutes the Final Order of the Secretary.

**A**

Janice K. Bullard  
Administrative Law Judge

Cherry Hill, New Jersey