



Issue Date: 29 November 2007

Case No.: 2007-LCA-00009

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION,
Prosecuting Party

v.

TECHNOCREST SYSTEMS, INCORPORATED,
Respondent

DECISION AND ORDER APPROVING CONSENT FINDINGS

This proceeding arises under the H-1B provisions of the Immigration and Nationality Act, as amended (8 U.S.C. §§ 1101(a)(15)(h)(i)(b) and 1182(n)), and the implementing regulations at 20 CFR Part 655, Subparts H and I.

The Wage and Hour Division of the Department of Labor initiated an investigation of the Respondent and found various violations of the H-1B provisions of the Immigration and Nationality Act. The Administrator, Wage and Hour Division, issued a Determination on March 2, 2007, detailing the violations and finding that the Respondent is assessed a civil money penalty in the amount of \$121,000.00 and that Respondent owes \$2,175,653.21 in back wages to 104 H-1B nonimmigrant workers. On March 16, 2007, the Respondent requested a hearing before the Office of Administrative Law Judges to challenge the Administrator's Determination.

This case was initially set for hearing on June 19, 2007, but the hearing was rescheduled to August 28, 2007, after Respondent filed a Motion for Continuance to allow time for discovery. Thereafter, on July 13, 2007, counsel for the Prosecuting Party filed an unopposed Motion for Continuance due to the disruption of an office move. On August 22, 2007, this matter was rescheduled for hearing on December 4, 2007. On November 27, 2007, the parties have now submitted Consent Findings signed by Malinda B. Schoeb, counsel for the Prosecuting Party, Robert J. Babine, President of Respondent, Evelyn G. Quintos, Vice-President of Respondent, and Daniel K. Wooten, counsel for Respondent. The parties represent that these Consent Findings resolve all issues in dispute, and request that they be approved and a decision be issued based upon the agreed findings, in accordance with the Rules of Practice and Procedure before the Office of Administrative Law Judges, 29 CFR § 18.9.¹ I have reviewed the Consent Findings and find that the terms are fair and reasonable, and in substantial compliance with the requirements of 29 CFR § 18.9(b).

¹ The amount of back wages due employees employed by Respondent during the period from August 14, 2004, to August 15, 2005, is modified from \$2,175,653.21 to \$2,134,601.57. The amount due each employee is set forth in Exhibit A, which is attached to and made a part of the Consent Findings.

IT IS THEREFORE ORDERED that the Consent Findings submitted by the parties is APPROVED and ADOPTED as the findings of fact and conclusions of law of the Office of Administrative Law Judges, and shall constitute full, final, and complete adjudication of this proceeding. The parties are ORDERED to carry out and comply with the provisions of the Consent Findings in all respects.

IT IS FURTHER ORDERED that the hearing scheduled on December 4, 2007, in Springfield, Missouri, is CANCELLED.

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JOSEPH E. KANE
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review (“Petition”) that is received by the Administrative Review Board (“Board”) within thirty (30) calendar days of the date of issuance of the Administrative Law Judge’s decision. *See* 20 C.F.R. § 655.845(a). The Board’s address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC, 20210. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file the Petition with the Board, you must serve it on all parties as well as the Administrative Law Judge. *See* 20 C.F.R. § 655.845(a).

If no Petition is timely filed, then the Administrative Law Judge’s decision becomes the final order of the Secretary of Labor. Even if a Petition is timely filed, the Administrative Law Judge’s decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 655.840(a).