

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 24 June 2008

CASE NO. 2008-LCA-00016

In the Matter of:

**ADMINISTRATOR, WAGE AND HOUR DIVISION,
*Prosecuting Party,***

v.

**L & N, INC.,
*Respondent.***

DECISION AND ORDER
APPROVING CONSENT FINDINGS

The Administrator, Wage and Hour Division, United States Department of Labor, issued a Determination Letter on February 20, 2008, alleging violations of the H-1B provisions of the Immigration and Nationality Act of 1952 as amended by the Immigration Act of 1990, and the Miscellaneous Technical Immigration and Naturalization Amendments of 1991 and the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) (Title IV of Pub. L. 105-277, October 21, 1998; 112 Stat. 2681) found at 8 U.S.C. § 1101 *et seq.*; 8 U.S.C. § 1101(a)(15)(H)(i)(b) and 8 U.S.C. § 1182(n) *et seq.* ("INA"). The Prosecuting Party determined that the Respondent failed to pay wages required in violation of 20 CFR § 655.731 and 20 CFR § 665.805(a)(2); failed to provide notice of the filing of LCAs in violation of 20 C.F.R. § 655.734; accepted payment from the H-1B worker of petition and attorney fees in connection with the filing of an H-1B petition in violation of 20 C.F.R. § 655.731(c)(9)(ii) and 20 C.F.R. § 655.731(c)(10)(ii); and failed to maintain documentation as required by 20 C.F.R. § 655.731(b) and/or 20 C.F.R. § 655.760(c). Respondent filed a timely request for hearing on March 5, 2008. Jurisdiction over these proceedings is vested in the Office of Administrative Law Judges by INA § 212(n), 8 U.S.C. § 1182(n), and 20 CFR Part 655.800 *et seq.* with respect to Respondent's request for a hearing concerning the alleged violations of the provisions of § 1182(n) of the INA.

The parties filed a Settlement Agreement and Consent Findings and a proposed Order that were signed by counsel for the Administrator, Prosecuting Party and by the president and counsel for Respondent, L&N, Inc. The Settlement Agreement and Consent Findings are marked for identification as ALJ No. 1 and are attached hereto and made a part hereof. The parties' agreement resolves the claims raised by the Administrator's Determination Letter of February 20, 2008. The Rules of Practice and Procedure for Administrative Hearings for the Office of Administrative Law Judges found at 29 C.F.R. Part 18 is applicable to this proceeding.

ORDER

Upon review of the record and the terms of the Parties' Settlement Agreement and Consent Findings, it is determined that the terms of the settlement are fair and reasonable. The Settlement Agreement and Consent Findings are hereby **APPROVED**.

IT IS ORDERED that:

1. This Decision and Order shall have the same force and effect as an order made after full hearing.
2. The entire record upon which this Decision and Order is based shall consist solely of the Administrator's Determination Letter and the Parties' Settlement Agreement and Consent Findings executed by the parties.
3. Any further procedural steps before this Office and the Administrative Review Board are waived.
4. Any rights to challenge or contest the validity of this Decision and Order entered into in accordance with the Settlement Agreement and Consent Findings are hereby waived.
5. The Determination Letter, Parties' Settlement Agreement and Consent Findings, together with this Decision and Order, shall constitute the final administrative findings and order in this case.
6. The hearing scheduled herein for July 25, 2008 is hereby **CANCELLED**.

A

Russell D. Pulver
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, Suite S-5220,

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).