

U.S. Department of Labor

Board of Alien Labor Certification Appeals
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue date: 26Sep2001

CASE NO: 2001-LCA-00003

In the Matter of

HPC HECK & PARTNER

ORDER OF DISMISSAL

This Case involves an appeal from a Department of Labor (DOL) determination on October 27, 2000 which found that HPC Heck & Partner consulting, Inc. (HPC) failed to pay two employees the prevailing wage rate under the H-1B provisions of the Immigration and Nationality Act of 1952 P.L. 82-414, 66 Stat. 163, codified and amended at 8 U.S.C. §§ 1101(a)(15)(H)(I)(b), 1184(i) and 1182(n), and the amendments under the American Competitiveness and Workforce Improvement Act of 1998, Title IV of Pub. L. 105-277, 112 Stat. 2681 (Oct. 21, 1998). Jurisdiction over the hearing in this matter is given to the Office of Administrative Law Judges by §212(n)(2), of the Immigration and Nationality Act, 8 U.S.C. §1182(n)(2) and 20 C.F.R. §655.820-840.

On November 9, 2000, Complainant Fosco Zilli, one of the H-1B employees affected by the October 21, 2000 Wage and Hour Determination Letter, timely filed an appeal pursuant to 20 C.F.R. §655, et seq. By joint motions the matter was continued on two occasions so the parties could engage in settlement discussions. The case is presently set for hearing in San Francisco on October 2nd and 3rd, 2001.

On September 24, 2001 the parties filed a Stipulation For Dismissal With Prejudice and Proposed Order. The stipulations includes the following:

1. On July 9, 2001, the parties reached a reconciliation that was formalized in a settlement agreement on September 14, 2001.
2. Fosco Zilli and HPC Heck & Partner Consulting, Inc., with full knowledge, waive any and all rights to contest the validity of the Determination Letter issued by the Wage and Hour Division of the Department of Labor on October 27, 2000.
3. All violations relating to Fosco Zilli in the Determination Letter issued by the Wage and Hour Division to HPC Heck & Partner Consulting, Inc. shall be deemed fully resolved by the Stipulated Order of Dismissal.
4. The amounts deemed owed to Mr. Zilli by the Department of Labor, Wage & Hour Division have been paid in full, in part by the settlement referenced above.

5. HPC Heck & Partner Consulting, Inc. represents that it is in compliance and commits to remain in compliance with the provisions of the Immigration and Nationality Act (“INA”) H-1B program, 8 U.S.C. 1101(a)(15)(H)(I)(b) and 1182(n), and the implementing regulations at 20 C.F.R. § 655, Subparts H and I, 20 C.F.R. § 655.700 et seq.

6. The parties agree that each party shall bear its own fees and other expenses incurred in connection with any stage of this proceeding.

I have reviewed the stipulation and find and conclude that it is reasonable and should be accepted. In the circumstances the case should be removed from the Calendar and dismissed with prejudice.

ORDER

It is Ordered That:

1. Case No. 2001-LCA-3 is hereby removed from the calendar.
2. Case No. 2001-LCA-3 is hereby dismissed with prejudice.
3. Each party shall bear its own fees and other expenses incurred in connection with any stage of this proceeding.

DONALD B. JARVIS
Administrative Law Judge

San Francisco, California