

U.S. Department of Labor

Office of Administrative Law Judges
Washington, DC



In the Matter of

ANTONIO SANTO
Complainant

v.

Case No. 86-JSA-10

FAIRVIEW ORCHARDS ASSOCIATES

Respondent

ORDER

Upon consideration of the parties' Stipulation of Dismissal, the representations contained therein, and the requirements of the public interest, it is hereby ORDERED that the Decision and Order previously entered on January 19, 1986, is vacated and that the above-captioned matter is dismissed with prejudice pursuant to 20 CFR §18.39(b), each party to bear its own fees and expenses. It is further ORDERED that Fairview's appeal and the Decision of the Regional Administrator dated January 19, 1986, are withdrawn pursuant to the terms of the Stipulation of the parties.

ARTHUR C. WHITE
Administrative Law Judge

Dated: DEC 10 1986
Washington, D.C.

ACW:jeh

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

ANTONIO SANTO,
Complainant;
v.

Case No. 86-JSA-10

FAIRVIEW ORCHARDS ASSOCIATES,
Respondent.

STIPULATION OF DISMISSAL

The Regional Administrator (hereinafter RA), by counsel, and Fairview Orchards Associates (hereinafter Fairview), by counsel, in full resolution of the above-captioned matter, hereby stipulate and agree as follows:

1. By Decision issued January 19, 1986, the RA affirmed the imposition of the sanction of discontinuation of Job Service services to Fairview pursuant to 20 C.F.R. 5658.501, and ruled Fairview ineligible to apply for a temporary labor certification in the coming year pursuant to 20 C.F.R. S655.210 of the temporary foreign labor certification regulations. The ruling was based on the RA's finding that Fairview violated the terms of its temporary labor certification assurances and the terms of its job offer by not hiring Antonio Santo who was deemed a qualified U.S. worker who had applied to Fairview pursuant to a referral by the Maryland State Employment Service in 1983, before fifty percent of the contract period had elapsed pursuant to 20 C.F.R. §655.203(e).

2. Pursuant to Fairview's appeal of the RA's Decision and request for a hearing, this matter was referred to the Department of Labor Office of Administrative Law Judges by order of Reference dated April 9, 1986.

3. By letter dated July 16, 1986, counsel for the RA advised that the Department of Labor and Fairview had agreed to a settlement of their disputes, including the above-captioned matter.

4. Pursuant to the aforementioned settlement, Fairview, inter alia, has provided assurances it has fully resolved all disputes with all known complainants, including the complaint of Antonio Santo which is the basis of this matter: it will in the future comply in good faith with the rules and regulations governing the Job Service system and the temporary employment of foreign workers, with the terms and conditions imposed by the labor certification, job offers and clearance orders, and with all applicable Federal and State employment-related

laws and regulations. It is understood that in making assurances and reaching settlement of claim, charges and proceedings, Fairview does not admit any past violations or liability.

5. Fairview also has provided specific assurances it will not engage in the alleged employment practices described in Paragraph 1 above which caused the disputes with the Department of Labor, including those practices which resulted in the complaints involved in this matter.

6. In view of the foregoing, the parties hereby stipulate and agree to the dismissal of this matter; Fairview stipulates and agrees to the withdrawal of its appeal of the RA's Decision dated January 19, 1986; and the RA stipulates and agrees to the withdrawal of his aforementioned Decision dated January 19, 1986.

7. Further, each party agrees to bear its own fees and other expenses incurred by such party in collection with any stage of this proceeding.

FAIRVIEW ORCHARDS ASSOCIATES
Ann Margaret Pointer, Esquire

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Fairview Orchards Associates

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Solicitor of Labor

Marshall H. Harris
Regional Solicitor

Arthur J. Corrado, Jr.
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UNITED STATES DEPARTMENT OF LABOR
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