

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 25 February 2005

Case No.: 2004-EPP-00003

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR
DIVISION, U.S. DEPARTMENT OF LABOR
Plaintiff

v.

THE NAVIGATOR GROUP OF OCALA, INC.
d/b/a THE NAVIGATOR GROUP AND
R & L TRANSFER, INC.
Respondent

BEFORE: JOSEPH E. KANE
Administrative Law Judge

DECISION AND ORDER

By Notice dated September 24, 2003, pursuant to Section 6(a) of the Employee Polygraph Protection Act (29 U.S.C. § 2001 *et. seq.*) (hereinafter "the Act.") and in accordance with 29 C.F.R. Part 801, civil money penalties in the amount of \$14,000 were assessed by the Secretary of Labor against Respondent, as a result of alleged violations of the Act and Regulations issued thereunder (29 C.F.R. § 801.12(f)). The assessments were made as a result of the administration of polygraph examinations of Respondent's employees in violation of the provisions of Section 3 and the restriction provisions of Section 8 of the Act.

The Respondent filed exceptions to the assessed civil penalties pursuant to authority conferred by 29 C.F.R. Part 801. The Director of Regional Operations of the Employment Standards Administration referred the matter to this office by way of Order of Reference, sent June 30, 2004.

By agreement of the parties, a "Stipulation" has been duly executed and entered into, pursuant to 29 C.F.R. § 18.9, a copy of which is attached hereto and made a part hereof. The Stipulation was executed on December 29, 2004, and is signed by Susan R. Bell, who is counsel for Respondent. Linda M. Hastings, signed the Stipulation on behalf of the Secretary of Labor.

The Respondent now certifies that it is not in active business. In the event business operations are resumed, the Respondent agrees to comply with the provisions of Sections 3 and 8 of the Act and regulations set forth at 29 C.F.R. Part 801. Following Plaintiff's reconsideration

of the amount of the penalties previously assessed regarding the alleged use of lie detector tests by Respondent contrary to the Act, the parties have agreed to compromise and settle this matter, without Respondent admitting to liability. The parties' intent is that the Stipulation resolve all issues referenced in Paragraphs I and II of same. The parties have further agreed and Respondent has tendered to Plaintiff payment of the total amount of \$1,000.00, which payment constitutes a complete resolution of this matter.

This Order, which is entered in accordance with the stipulation, has the same force and effect as an Order made after a full hearing. 29 C.F.R. § 18.9(b)(1). The entire record, upon which this Order is based, consists of the notice of administrative determination, as amended, and this stipulation. 29 C.F.R. § 18.9(b)(2).

The parties have waived all further procedural rights provided by 29 C.F.R. Part 801 and any right to contest the validity of the Stipulation and also of this Order in accordance with 29 C.F.R. § 18.9(b)(3) and (b)(4). The parties have also waived any claim either party may have to costs and/or attorney fees.

Wherefore, upon consideration of the record in its entirety, I hereby find that the "Stipulation," agreed to by all parties to this matter is the final Order of the Secretary of Labor.

A

JOSEPH E. KANE
Administrative Law Judge