

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 20 February 2009**

**CASE NO.: 2008-LCA-33**

**IN THE MATTER OF**

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

**v.**

**BRADLEY CONSULTING SERVICES, INC., and  
MARIA P. BRADLEY, Individually and as President.,  
Respondents**

**CONSENT FINDINGS AND ORDER**

Pursuant to 29 C.F.R. § 18.9 (1992), the parties to this action, prosecuting party, Administrator, Wage and Hour Division (“Administrator”) and Respondents, Bradley Consulting Services, Inc. and Maria P. Bradley, have negotiated and executed these Consent Findings and Order. These Consent Findings and Order constitute a full and final resolution of this action and of all issues raised by the Administrator’s Determination Letter issued to Bradley Consulting Services, Inc. and Maria P. Bradley, Individually and as President (“Respondents”), on June 16, 2008 (the “Determination Letter”).

**Jurisdiction and Procedural History**

1. This action arises under the Immigration and Nationality Act of 1952, P.L. 82-414, 66 Stat. 163, codified as amended at 8 U.S.C. § 1101, et ~ (“INA”), as amended by the Immigration Act of 1190, P.L. 101—649, 104 Stat. 4978, the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, P.L. 102-232, 105 Stat. 1733 and the American Competitiveness and Workforce Improvement Act of 1998 (“ACWIA”), P.L. 105-277, 112 Stat. 2861-641. Jurisdiction over the hearing in this matter is vested in the Office of Administrative Law Judges by INA §212(n)(2), 20 C.F.R. §§655.820-840.

2. The issues resolved by these Consent Findings and Order were identified initially during an investigation conducted by Wage-Hour from October 30, 2007 through May 30, 2008.

3. On June 16, 2008, Wage and Hour issued to Respondents, a Determination Letter identifying alleged violations of the H-1B provisions of the INA.

4. Within the time period provided by 20 C.F.R. § 655.820, Respondents filed a Request for Hearing with respect to the allegations of violations set forth in the Determination Letter.

### **General Provisions**

5. These Consent Findings and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing.

6. The entire record forming the basis on which the Order is entered shall consist of the Determination Letter, these agreements and consents, and any transcript of the proceeding at which this Consent Findings and Order is presented to the Administrative Law Judge.

7. The parties to these Consent Findings and Order hereby waive all further procedural steps between themselves before the Administrative Law Judge.

8. These Consent Findings and Order shall become final immediately upon approval of the Administrative Law Judge.

### **Specific Provisions**

9. The Administrator hereby further amends the Determination Letter to restate the civil money penalties to \$2,875 and the back wages owed to the H-1B employee, Ms. Tatiana Phan-Lung, to \$38,258.28, which Respondents now agree they owe.

10. Respondent Bradley Consulting Services, Inc. was the sponsoring employer for Ms. Tatiana Phan-Lung's H-1B Visa and is now for all relevant purposes defunct.

11. Maria P. Bradley is personally liable for the same amount as Bradley Consulting Services, Inc. (\$41,133.28), as she acted as the alter ego of Bradley Consulting.

12. To obtain the H-1B Visa, Respondents attested they would pay Ms. Tatiana Phan-Lung, the H-1B employee, a wage at or above the "Prevailing Wage" and comply with all other requirements of the H-1B program.

13. Contrary to those attestations, Respondents did not pay the Hi-B employee a wage at or above the “Prevailing Wage” and comply with all other requirements of the Hi-B program.

14. Respondents has paid the civil money penalties in the amount of \$2,875 and \$2,425 towards back wages. Accordingly, Respondents For as long as there is a balance remaining, Respondents now owe only back wages in the amount of \$35, 833.28.

15. Respondents will pay towards the back wages of \$35,833.28 in accordance with the Determination Letter, as amended, by paying the Hi-B employee seven payments of \$5,000.00 every other month by the 10<sup>th</sup> of the month beginning April 10, 2009 and a final payment of \$833.28 on or before June 10, 2010.

16. In the event Respondent fails to make a monthly payment on time, the total balance then remaining shall become due and payable immediately with no further notice or demand required from the Administrator, and interest at the U.S. Treasury underpayment rate referenced in 26 U.S.C. § 621(a) (2) shall accrue on the remaining balance from the date the payment was missed.

17. Respondents withdraw their Request for Hearing filed in this matter, and consent to the affirmation of the matters set forth in the Determination Letter, as amended.

### **Reporting and Enforcement**

18. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of these Consent Findings and Order, is retained, as necessary, by the Office of Administrative Law Judges. However, this Order may also be enforced by seeking such in the appropriate United States District Court.

19. Enforcement proceedings for violation of these Consent Findings and Order may be initiated at any time upon the filing of a motion for an Order of enforcement and sanctions with the Administrative Law Judge or a motion for contempt following a successful petition to enforce in the United States District Court.

20. Each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding including, but not limited to, attorney’s fees which may be available under the Equal Access to Justice Act, as amended.

21. Respondents shall comply with 20 C.F.R. §655.731(c) in the future.

22. These Consent Findings and Order shall constitute the final Administrative Order in this case.

**So ORDERED** this 20th day of February, 2009, at Covington, Louisiana.

**A**

**C. RICHARD AVERY**  
**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).