



Issue date: 17Jun2002

<p>In the Matter of</p> <p>ADMINISTRATOR, WAGE AND HOUR DIVISION</p> <p>Prosecuting Party</p> <p>v.</p> <p>LIVESCU UNFORGETTABLE EUROPE TOURS, INC.</p> <p>Respondents</p>
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Case No.: 2002-LCA-00014

ORDER APPROVING CONSENT FINDINGS

This proceeding arises under the H10B provisions of the Immigration and Nationality Act (“INA”), and the applicable regulations issued thereunder at 29 C.F.R. Sections 507 *et seq.*, and 20 C.F.R. Part 655, Subparts H and I.

By letter dated March 8, 2002, the Wage Hour Division of the United States Department of Labor (DOL) notified LIVESCU that it had violated the aforementioned Acts and regulations. Respondents timely requested a hearing. Although the file does not contain an Order of Reference filed by the DOL, counsel for the Respondent provided this Office on with a copy of the DOL’s letter on April 4, 2002.

On June 11, 2002, DOL and Respondent submitted executed Consent Findings, reflecting that the parties have negotiated a settlement of all disputed claims. The parties request review of the agreement and an order disposing of this proceeding.

The Respondent was charged with failing to pay an employee the required wage rate for the entire period of authorized employment. In the Consent Findings, the Respondents have agreed that they violated the INA by failing to pay wages at the prevailing annual wage rate specified on the Labor condition Application filed by the Respondent, to one H1-B Nonimmigrant worker. Respondent has agreed that it is obligated to pay back wages in the amount of \$12,198 to the worker, Marian Anghel, upon entry of this Order, and that payment will

be in the form of a certified or bank check payable to Marian Anghel or the Wage and Hour Division - Labor. This payment will be made free and clear, and any sum not distributed to the named employee or his personal representative after three years, either because of inability to locate him, or his refusal to accept the sum, shall be deposited with the Treasurer of the United States as miscellaneous receipts.

Jurisdiction is retained by the Office of Administrative Law Judges, and enforcement proceedings for violation of the Consent Findings and Order may be initiated upon filing a motion with the Office of Administrative Law Judges for an order of enforcement and sanctions. Each party will bear its own fees and expenses incurred with this proceeding including, but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended. Respondent shall comply with 20 C.F.R. § 655.731(c) in the future.

These Consent Findings and Order shall constitute the final Administrative Order in this case, and shall have the same force and effect as an Order made after a full hearing. The entire record forming the basis on which this Order is entered shall consist of the Determination Letter, and these agreements and consents. The parties hereby waive all further procedural steps between themselves before the Administrative Law Judge, and any right to contest the validity of these findings. All violations alleged in the Determination Letter shall be deemed fully resolved by these Consent Findings and Order with regard both to the Respondent and the DOL. The Consent Findings and Order shall become final, and the effective date shall be the date of my approval.

Review of the Consent Findings shows that the agreement justly resolves all issues in the above-captioned matter, and I hereby **ORDER** that the Consent Findings are **APPROVED** in full and incorporated herein. The Consent Findings shall constitute my findings of fact and conclusions of law and shall constitute full, final and complete adjudication of this proceeding.

Accordingly, **IT IS HEREBY ORDERED** that:

1. This Order shall have the same force and effect as an Order after full hearing;
2. The entire record upon which this order is based shall consist solely of the Order of Reference and the Consent Findings;
3. Any further procedural steps before this Office are waived; and
4. Any rights to challenge or contest the validity of this Order entered into in accordance with this agreement are waived.

SO ORDERED.

LINDA S. CHAPMAN
Administrative Law Judge