

U.S. Department of Labor

Office of Administrative Law Judges
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Washington, DC 20001-8002

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Issue Date: 19 November 2012

Case Number: 2012-CLA-00008

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR,
Plaintiff

v.

MOONWALKS FOR FUN, INC. D/B/A MOONWALKS FOR FUN,
MOONWALKS FOR FUN, INC. D/B/A PURE ENTERTAINMENT,
DUANE ZOGLEMAN, and
JESSEE ZOGLEMAN, Individually,
Respondents

Before: STEPHEN L. PURCELL
Chief Administrative Law Judge

DECISION AND ORDER

This case arises under the Fair Labor Standards Act of 1938 (FLSA), as amended, 29 U.S.C. § 216(e), and the regulations at 29 C.F.R. Parts 579 and 580.

By notice dated November 22, 2011, the Administrator of the Wage and Hour Division of the United States Department of Labor (Plaintiff) notified the above-named Respondents of an assessment of a civil money penalty in the amount of \$14,645.00. Plaintiff alleged that Respondents violated the child labor provisions of Sections 6, 7 and 11 of FLSA and its governing regulations issued thereunder. Respondents filed an exception to the assessed penalty with Plaintiff on June 20, 2012. Pursuant to the filing of the exception, Plaintiff filed an Order of Reference with the Office of Administrative Law Judges (Office) and this Office issued a Notice of Docketing to the parties on June 25, 2012 directing them to exchange and file Prehearing Exchange information within thirty (30) days.

Plaintiff filed its Prehearing Exchange information on July 31, 2012, with this Office. Due to the failure of Respondents to comply with the Notice of Docketing, on September 14, 2012, an Order to Show Cause was issued. Therein, Respondents were to explain why a default decision should not be entered in this matter.

To date, Respondents have failed to respond to the Notice of Docketing or the Order to Show Cause. The regulations at 29 C.F.R. § 18.6(d) (2) (v) provide that:

If a party or an officer or agent of a party fails to comply with a subpoena or with an order, . . . the administrative law judge, for the purpose of permitting resolution of the relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may . . . [r]ule that a pleading, or part of a pleading, or a motion or other submission by the non-complying party, concerning which the order or subpoena was issued, be stricken, or that a decision of the proceeding be rendered against the non-complying party, or both.

After reviewing the record and considering Respondents' non-participation, I hereby ORDER that a Judgment by Default be entered against Respondents. The material facts alleged in the Order of Reference are adopted as my findings of fact.

In light of the foregoing, Respondents are hereby ORDERED to pay a civil money penalty in the amount of \$14,645.00 for violating the child labor provisions of the FLSA.

SO ORDERED,

STEPHEN L. PURCELL
Chief Administrative Law Judge

Washington, DC

NOTICE OF APPEAL RIGHTS: If you are dissatisfied with the administrative law judge's decision, you may file an appeal with the Administrative Review Board ("Board"). To be timely, your appeal must be filed with the Board within thirty (30) days of the date of issuance of the administrative law judge's decision. *See* 29 C.F.R. § 580.13. The address for the Board is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. *See* Secretary's Order 1-2002, 67 Fed. Reg. 64272 (2002). Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file the appeal with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001. *See* 29 C.F.R. § 580.13.

If no appeal is timely filed, then the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 580.12(e).