

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 04 August 2006

CASE NO.: 2006-LCA-00013

In the matter of

**ADMINISTRATOR, WAGE & HOUR DIVISION,
UNITED STATES DEPARTMENT OF LABOR**
Prosecuting Party

v.

HAESE, LLC
Respondent

Appearances:

Christine A. Collins, Attorney (Frank V. McDermott, Jr.,
Regional Solicitor and Howard M. Radzely, Solicitor of Labor)
Boston, Massachusetts, for the Prosecuting Party

Glenn Haese, Esq, (Haese LLC),
Boston, Massachusetts, for the Respondent

Before: Daniel F. Sutton
Administrative Law Judge

DECISION AND ORDER APPROVING CONSENT FINDINGS

In the above matter which arises from the Prosecuting Party's enforcement of H-1B Labor Condition Applications under section 212(n) of the Immigration and Nationality Act, 8 U.S.C. § 1182(n), and the implementing regulations set forth at 20 C.F.R. Part 655, Subpart 1, the parties have executed and filed a SETTLEMENT AGREEMENT AND CONSENT FINDINGS which constitute a full and final resolution of all issues raised by the Prosecuting Party's enforcement actions in these matters. Pursuant to 20 C.F.R. § 655.840(b), I hereby adopt the parties' consent findings, which are set forth below in paragraphs 1–9, as my findings and conclusions.

1. This action arises under the Immigration and Nationality Act as amended [8 U.S.C. §§ 1101 (a)(15)(H)(I)(b), 1184 (I)(1), hereinafter "the Act"], and 20 C.F.R. Part 655 for a hearing involving alleged violations of the provisions of section 1185(n) of the Act.

2. On February 28, 2006, the Administrator of the Wage and Hour Division, United States Department of Labor, issued a determination that a basis existed to make a finding that Respondent failed to pay wages as required by the Act.

3. Respondent made a timely request for a hearing challenging the Administrator's determination.

4. The parties subsequently entered into negotiations designed to resolve this matter amicably. As a result of these negotiations, the parties have agreed to settle this litigation in exchange for certain mutual agreements. These agreements are as follows:

a. Respondent agrees to the payment of back wages in the amount of \$19,260.00 less deductions for the employee's share of social security and withholding taxes and any other authorized deductions approved by the Administrator in his sole discretion based upon documentation submitted to him by August 12, 2006. Respondent waives any rights to challenge or contest the decision of the Administrator regarding allowable deductions.

b. The back wages are to be paid by check or money order, payable to "Florence Caurand or Wage & Hour — Labor" and sent to the United States Department of Labor, Wage & Hour Division, John F. Kennedy Federal Building, Room 525, Boston, MA 02203. Respondent shall transmit the total amount of these back wages to the Administrator in seven (7) installments of \$2,500 each, and an eighth and final installment of \$1,760. The first installment shall be postmarked to the Administrator on or before August 15, 2006. The remaining installments shall be postmarked to the Administrator on or before the 15th day of each of the next seven (7) months. Interest shall accrue on the outstanding balance at the rate of 2% per annum from the date of entry of this Settlement Agreement and Consent Findings through the date of payment. Respondent further agrees that should it fail to mail any amount due on or before the date it is due, the entire balance shall immediately become due. Nothing herein shall prevent Respondent from paying the back wages owed sooner than provided in this paragraph.

c. Respondent agrees to comply in all respects with the Act and applicable regulations in connection with any further H-1B application.

5. Respondent's failure to carry out any portion of this settlement agreement shall subject Respondent to the statutory penalties for failure to pay wages found at 8 U.S.C. § 1182(n) and 20 C.F.R. Part 655.

6. The entire record on which the Order issued by the Court is based shall consist of the Administrator's determination, Respondent's request for hearing, and this agreement.

7. The parties waive any further procedural steps before the administrative law judge and waive any right to challenge or contest the validity of this Settlement Agreement and Consent Findings and any order entered into in accordance with this agreement.

8. This agreement shall fully and finally resolve all outstanding issues between the parties that were raised, or reasonably could have been raised, in the Administrator's determination of February 28, 2006.

9. Each party shall bear its own costs, attorney's fees and expenses.

SO ORDERED.

A

DANIEL F. SUTTON
ADMINISTRATIVE LAW JUDGE

Boston, Massachusetts