

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 28 April 2009

CASE NO. 2008-LCA-0040

In the Matter of:

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

vs.

**AMRAT, INC.
d/b/a PRIME TIME SHUTTLE,**
Respondent.

**DECISION AND ORDER GRANTING WITHDRAWAL OF APPEAL, VACATING
HEARING, AND DISMISSING CASE**

On July 21, 2008, the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division (the "Prosecuting Party") issued a determination letter alleging violations of the H-1B provisions of the Immigration and Nationality Act of 1952 as amended by the Immigration Act of 1990, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 and the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) (Title IV of Pub. L. 105.277, Oct. 21, 1998; 112 Stat. 2681) found at 8 U.S.C. §1182(n), et seq.; 8 U.S.C. 1101(a)(15)(H)(i)(b) (the "Act"). The Prosecuting Party determined that the Respondent Amrat, Inc. doing business as Prime Time Shuttle ("Respondent") had violated certain provisions of 8 U.S.C. § 1101(a)(15)(H)(i)(b) and the accompanying regulations. Pursuant to 20 C.F.R. §655.815, the Administrator notified Respondent that it owed \$67,705.11 to four H-1B non-immigrant workers and imposed a civil money penalty of \$4,500.00. The aforementioned debt is subject to the further assessment of interest, administrative cost charges and penalties in accordance with the Debt Collection Improvement Act of 1996 and the Department of Labor policies.

On July 23, 2008, Respondent appealed the July 21, 2008 determination letter findings and requested a hearing. After two trial continuances, this matter is currently scheduled for hearing on June 18, 2009 in Long Beach, California.

On April 24, 2009, Respondent's counsel and counsel for the Office of the Solicitor, for the Prosecuting Party, submitted a joint motion to dismiss this proceeding and notice of Respondent's withdrawal of its request for hearing which would cancel the hearing, and accept the Prosecuting Party's findings from the July 21, 2008 determination letter (the "April 24, 2009 Request to Withdraw Appeal"). Stated differently, Respondent seeks to withdraw its request for appellate review leaving in place the July 21, 2008 determination as the final ruling in this matter.

The civil money penalty and the back wage amount are to be paid as described in the July 21, 2008 determination letter.

The Rules of Practice and Procedure for Administrative Hearings for the Office of Administrative Law Judges found at 29 C.F.R. Part 18 is applicable to this proceeding. 20 C.F.R. §655.825(a).

ORDER

Upon a review of the record and good cause shown:

IT IS ORDERED that Respondent's request to withdraw its appeal is **GRANTED** leaving the July 21, 2008 determination letter as the final ruling in this case.

IT IS FURTHER ORDERED that the June 18, 2009 hearing in this matter is **VACATED**.

IT IS FURTHER ORDERED that:

1. This Decision and Order shall have the same force and effect as a decision and order made after full hearing;
2. The entire record upon which this Decision and Order is based shall consist solely of the July 21, 2008 determination letter and the April 24, 2009 Request to Withdraw Appeal;
3. Any further procedural steps before this Office are waived;
4. Any rights to challenge or contest the validity of this Decision and Order entered into in accordance with this agreement are hereby waived.
5. This Decision and Order, in combination with the July 21, 2008 determination letter, shall be the final agency action; and
6. The parties agree that each party shall bear its own costs, fees and expenses incurred by it in connection with any stage of these proceedings to date, including but not limited to any fees that may be available under the Equal Access to Justice Act.

IT IS FURTHER ORDERED that this matter is hereby **DISMISSED** with prejudice.

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GERALD M. ETCHINGHAM
Administrative Law Judge

San Francisco, California