



**Issue Date: 14 September 2009**

Case Nos. 2008-LCA-38  
2008-LCA-43

In The Matter Of:

Mohammed Rehan Puri,  
Claimant

v.

University of Alabama Birmingham  
Huntsville,  
Employer

**DECISION AND ORDER  
DENYING COMPLAINANT'S MOTION FOR SUMMARY DECISION  
GRANTING RESPONDENT'S MOTION FOR SUMMARY DECISION  
AND DISMISSING REQUEST FOR HEARING**

This case arises under the Immigration and Nationality Act (8 U.S.C. 1101) and relates to the payment of wages under 20 C.F.R. §655.731. On June 18, 2007, the Complainant filled out an Employment Information Form and H-1B Nonimmigrant Information Form, in which he indicated that Respondent failed to pay H-1B workers for time off due to a decision by the employer, or for time needed by the H-1B to acquire a license or permit, and required H-1B workers to pay all or any part of the \$500 or \$1000 filing fee. On July 1, 2008, the Administrator issued a Determination pursuant to the Regulations at 20 C.F.R. Part 655, involving H-1B Specialty Occupations under the Immigration and Nationality Act (INA) administered by the Department of Labor. The summary of the violations and remedies indicates:

- 1) The University of Alabama Birmingham - Huntsville failed to pay wages as required.
- 2) No civil penalty was assessed. The University was ordered to pay back wages in the amount of \$54,894.00 to 84 H-1B nonimmigrants no later than 15 days after the date of the determination. The debt was subject to the assessment of interest, administrative cost charges and penalties at a rate of 5%. The determination stated that the University and any other interested party had the right to request a hearing on the determination.

The determination indicated that the Respondent had to pay back wages in the amounts listed on the "Summary of Unpaid Wages, Form WH-56."

In a letter dated July 1, 2008, the Administrator informed the Complainant of the determination, and that as an interested party under 20 C.F.R. § 655.725, he had the right to appeal the finding to the Chief Administrative Law Judge pursuant to the instructions in the determination letter and the referenced regulations, 20 C.F.R. § 655, subparts H and I.

In a letter dated July 16, 2008, the Complainant timely requested a hearing on the basis of the failure of the Respondent to pay the required wage rate for nonproductive time and by taking illegal deductions. The Complainant requested that the University be subjected to penalties, including that they not be permitted to sponsor H-1B visas to any other foreign graduates in the future, and assessed civil penalties. The matter was assigned to the undersigned for a formal hearing.

Due to an administrative error, the Complainant did not receive correspondence associated with case No. 2008-LCA-38. He filed his claim a second time, and it was assigned to Administrative Law Judge Craft, in the Cincinnati district office. In response to an Order to Show Cause that I issued on August 29, 2008, the Complainant submitted a letter dated September 8, 2008, alleging that Respondent hired him as an H-1B worker and subsequently failed to pay him for a period of four months, and that he experienced financial hardship as a result. He indicated that although Respondent deposited an amount into his account after he filed his claim with the Department of Labor, it included improper tax deductions. Complainant requested that the Respondent be barred from sponsoring H-1B workers in the future.

On December 11, 2008, Respondent filed a Motion To Dismiss the Complainant's claim and in the alternative, a Motion for Summary Decision. The Respondent argued that the Complainant did not have standing to request a hearing on the Determination, because the Administrator's findings contained no determination adverse to him; the Administrator found violations, and the Complainant was paid his back wages. The Respondent also argued that because it paid the Complainant his back wages, no additional enforcement action was warranted by the Department of Labor.

The Complainant filed a response on January 18, 2009, stating that the Respondent did not engage in any correspondence with him between April 4, 2007 and July 1, 2007, illegally deposited \$8,335.15 into his bank account on June 30, 2007, failed to inform him of his employment status after a termination hearing, and did not pay him for the period from June 30, 2007 to July 27, 2007. The Complainant argued that he should be paid back wages from June 30, 2007, front wages through the end of the approved H-1B and labor condition application period, and the Respondent should be required to pay civil penalties, and suspended from use of the H-1B visa program.

On March 24, 2009, in response to my January 27, 2009 order requesting additional information, the Administrator filed a Submission Pursuant to the Status Order. This submission included a document from the Complainant entitled "H1B Visa Unpaid Wages Issue," two interview statements from the Complainant taken by the Wage Hour Investigator on June 19, 2007 and June 26, 2007, and the Summary of Unpaid Wages referred to in the Determination. In the Submission, the Administrator stated that she determined that the Respondent failed to pay the Complainant the required wage for non-productive work from February 19, 2007 to May 1,

2007. The Administrator also determined that the Respondent paid the Complainant the back wages which were due as a result of this violation before the initiation of the Wage Hour Investigation. The Administrator found that the Respondent improperly encouraged payment of an expedited processing fee by the Complainant, which brought his wages below the required wage, but that the Respondent had paid the back wages due for those violations to the Complainant before being contacted by the Wage Hour Division. The Administrator did not find the violations to be willful or substantial.

On July 6, 2009, after speaking with counsel by telephone to discuss the procedural status of the case, I issued a Status Order, indicating that the remaining issues in dispute were whether the Employer's July 30, 2007 dismissal of the Complainant was bona fide, and thus whether the Complainant was entitled to payment of wages through June 16, 2009. I set out a schedule for the submission of dispositive motions with respect to these remaining issues.

On July 23, 2009, the Complainant submitted his Motion for Summary Decision. On August 19, 2009, the Respondent submitted its brief in response to the Complainant's motion for Summary Decision and its Motion for Summary Decision. Finally, on September 10, 2009, the Complainant submitted his Memorandum Contra Respondent's Motion for Summary Decision and in Support of Claimant's Motion for Summary Decision.

#### **Applicable Law**

Under 20 C.F.R. § 655.820, the relevant portions of the hearing request process are outlined as follows:

(a) Any interested party desiring review of a determination issued under §§655.805 and 655.815, including judicial review, shall make a request for such an administrative hearing in writing to the Chief Administrative Law Judge...

(b) Interested parties may request a hearing in the following circumstances:

(1) The complainant or any other interested party may request a hearing where the Administrator determines, after investigation, that there is no basis for a finding that an employer has committed violation(s). In such a proceeding, the party requesting the hearing shall be the prosecuting party and the employer shall be the respondent...

(2) The employer or any other interested party may request a hearing where the Administrator determines, after investigation, that the employer has committed violation(s). In such a proceeding, the Administrator shall be the prosecuting party and the employer shall be the respondent.

Upon completion of the investigation, the Administrator shall issue a written determination as to whether or not any violations have been committed. 20 C.F.R. § 655.815. Within fifteen days of such determination, any interested party may request a hearing with the Office of Administrative Law Judges ("OALJ"), DOL. For example, the complaining employee

may request a hearing if the Administrator determines there is no basis for a finding that the employer committed violations of the LCA. 20 C.F.R. § 655.820(b)(1). “In such a proceeding, the party requesting the hearing shall be the prosecuting party and the employer shall be the respondent; the Administrator may intervene as a party.” Likewise, an employer “may request a hearing where the Administrator determines...that the employer has committed violation(s). In such a proceeding, the Administrator shall be the prosecuting party and the employer shall be the respondent.”

Under 20 C.F.R. § 655.840(b), an Administrative Law Judge has the authority to “affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator.”

### **Standard of Review**

The standard for granting summary decision is set forth at 29 C.F.R. § 18.40(d)(2001). This section, which is derived from Fed. R. Civ. P. 56, permits an administrative law judge to recommend decision for either party where "there is no genuine issue as to any material fact and . . . a party is entitled to summary decision." 29 C.F.R. §18.40(d).<sup>1</sup> Thus, in order for Respondent's motion to be granted, there must be no disputed material facts and Respondent must be entitled to prevail as a matter of law.

The non-moving party must present affirmative evidence in order to defeat a properly supported motion for summary decision. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). It is enough that the evidence consists of the party's own affidavit, or sworn deposition testimony and a declaration in opposition to the motion for summary decision. *Id.* at 324. The determination of whether a genuine issue of material fact exists must be made viewing all evidence and factual inferences in the light most favorable to the non-moving party. *Amoco Production Co. v. Horwell Energy, Inc.*, 969 F.2d 146, 148 (5th Cir. 1992).

### **Factual Background**

Based on the parties' pleadings, affidavits, and other documentary submissions, the following facts are not in dispute. The University of Alabama Birmingham Hospital System (Respondent) obtained an H-1B non-immigrant work visa, for the time period from July 1, 2006 to July 1, 2009, for the Complainant to work as a Resident in the Respondent's Residency Program in Family Medicine. The annual salary was \$40,782.00. At the time, the Complainant was already in the United States on a B-1 Business Visitor's visa. In a memorandum dated December 29, 2006, Dr. Allan J. Wilke, the Residence Program Director, notified the Complainant that the faculty had recommended that his appointment for the 2007-2008 academic year not be renewed due to poor performance. Dr. Wilke sent the Complainant a second memorandum dated February 19, 2007, notifying him that during a faculty meeting on February 16, 2007, he recommended immediate revocation of the Complainant's residency appointment,

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<sup>1</sup> Rule 56(c) provides that summary decision shall be rendered “if the pleadings, depositions, answers to interrogatories, admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. Proc. 56(c).

and that the faculty supported this recommendation.<sup>2</sup> Dr. Wilke advised the Complainant in each memorandum that he had the right to request a hearing on the recommendation.

The Complainant requested a hearing, which was held on April 9, 2007, before the Judicial Review Committee, which consists of members of Respondent's faculty and staff. A hearing was originally scheduled for March 5, but was continued at the Complainant's request so that he could prepare for the hearing, and plan and attend his wedding in May 2007, and visit his new wife's family in Texas. The hearing process, which includes a review by the Dean's Council, took four months to complete. On June 28, 2007, the Judicial Review Committee upheld Dr. Wilke's decision to terminate the Complainant's employment. The Dean's Council confirmed this decision on July 27, 2007, and adopted the recommendation of the faculty to terminate the Complainant's employment effective immediately. The Complainant was provided with a letter informing him of this decision, on or about July 2, 2007.

On July 30, 2007, the Respondent notified the U.S. Citizenship and Immigration Services that it wished to cancel the Complainant's H-1B visa because he was no longer affiliated with the university.

On June 18, 2007, before his termination became effective, the Complainant filed a complaint with the U.S. Department of Labor, claiming that the Respondent violated the Immigration and Nationality Act by not paying him for his leave time, and because he was required to pay the expedited processing fee for his visa. When the Respondent received notice of the complaint, it deposited the back wages into the Complainant's account. He remained on active payroll with the Respondent until the end of July 2007.

After conducting an investigation, on July 1, 2008, the Administrator issued a Determination concluding that the Respondent had violated the INA, in part because it had not paid the Complainant for the period of March 7, 2007 through June 30, 2007. The Administrator acknowledged that the Respondent had immediately paid the Complainant back wages due for this time period. The Administrator also found that the Respondent owed \$54,894 to the Complainant and 84 other employees working on H-1B visas for expedited processing fees paid by the employees. The Respondent has since repaid all of these fees.

On July 18, 2008, the Complainant filed his appeal of the Determination, requesting additional pay for the period of March 7, 2007 to July 30, 2007, based on his claim that the Respondent failed to pay the required wage rate for nonproductive time, and took illegal deductions. He also requested that the Respondent be assessed civil penalties, and disbarred from sponsoring H1-B visa employees.

In an affidavit executed on January 8, 2009, the Complainant stated, among other things, that he married a United States Citizen on May 21, 2007.

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<sup>2</sup> According to the Respondent, it placed the Complainant on paid leave in February 2007. However, the Complainant's leave status was changed to unpaid in March 2007 after the Complainant requested additional time off during the internal hearing process.

By letter dated June 10, 2009, and received on June 11, 2009, counsel for the Respondent tendered a check issued to the Respondent to his counsel, in the amount of \$1,506.00, as payment for the reasonable cost of transportation to his home country. Counsel's letter specifically stated that the payment did not constitute any admission regarding the obligation to make this payment, which the Respondent did not concede, as the Complainant intended to remain in the United States at the time of his termination. Counsel also stated that the payment was not an admission related to the effective date of the Complainant's termination from the residency program, or any other issue pending before the administrative law judge.

### Discussion

Before addressing the jurisdictional issue, I address the procedural history of this claim, as it sheds light on the issues before the Court. On April 27, 2009, I issued a Decision and Order Granting in Part and Denying in Part Respondent's Motion to Dismiss. In that Order, I discussed the issues that remained before me for hearing. I advised the parties that the Complainant's allegations about the failure of the Respondent to correspond with him or update him about various issues were not redressable under the LCA.

I noted that the Complainant alleged that he had not been paid for his leave time; the Administrator determined that this was a violation of the LCA, and ordered the Respondent to pay the back wages that were due. Complainant alleged that, although the Respondent made payment to him, it included improper deductions, and he requested payment of the amounts he claims were improperly deducted. As there was no evidence in the record as to how much the Complainant alleged he was owed by the Respondent, and it was thus impossible to know if the \$8,335.15 that the Respondent paid was the full amount required in back wages, I found that this was a factual issue that was still in dispute, and thus summary judgment was not appropriate.

The Complainant also alleged that he was entitled to payment of wages from June 30, 2007 to July 27, 2007, the last date he was on the Respondent's payroll.

Finally, the Complainant claimed that he was entitled to wages through the end of the approved H1-B and labor condition application period, July 1, 2009. The Claimant submitted an affidavit in response to the Respondent's motion, stating that the Respondent engaged in discriminatory practices by not paying him, taking away his insurance, terminating him, and mentally torturing him. I found that while the Complainant had standing to request payment for front wages, his charge of discrimination was not the subject of investigation by the Administrator, and was thus not before me.

During the July 3, 2009 telephone conference with the parties, for the first time, an issue was raised as to whether the Complainant was entitled to payment of wages through the end of the labor condition application period, on the grounds that the Employer had not effected a bona fide termination of the Complainant as of July 30, 2007. At that time, I advised the parties that I believed I had the authority to hear this issue, but that they could address this in their dispositive motions.

### Jurisdiction

As noted above, the only remaining issue in this matter is whether the Respondent is required to pay the Complainant wages for the time period from July 27, 2007 to July 1, 2009, the end of the H-1B visa period. The Complainant argues that he is entitled to payment of wages until June 12, 2009, when the Respondent tendered payment for the cost of return transportation to Pakistan, claiming that his termination was not effective until that date.<sup>3</sup>

The Respondent argues that the Complainant's claim for wages from July 27, 2007 to June 12, 2009 is not properly before the Office of Administrative Law Judges, because the Administrator did not investigate or issue a determination regarding the Complainant's claim for wages during this period.<sup>4</sup>

In the absence of any evidence that this issue was investigated by the Administrator, which is a prerequisite to a hearing, the Respondent is entitled to summary decision, as there is no jurisdiction to review claims that have not been investigated and made the subject of a determination by the Administrator. *See, Watson v. Electronic Data Systems Corp.*, ARB Nos. 04-023, 04-029, 04-050 (ARB May 31, 2005); *Watson v. IBM Corp.*, No. 2006-LCA-31 (ALJ Oct. 3, 2006). As the ARB noted in *Watson v. Electronic Data Systems Corp.*, *supra*, 20 C.F.R. Section 655.820, which governs review by the Office of Administrative Law Judges of a determination issued by the Administrator, states that interested parties may request a hearing in two circumstances. The first is when "the Administrator determines, after investigation," that there is no basis for a finding that an employer committed violations. The second is when "the Administrator determines, after investigation," that the employer violated the INA. As the Board noted, "the prerequisite for requesting a hearing is that the WHD Administrator has conducted an investigation and made a determination." In that case, the Board found that the Complainant failed to produce any evidence disputing the fact that the Administrator did not investigate his complaints, and the record contained no evidence that the Administrator had any reasonable cause to believe that any of the complaints warranted investigation.

As discussed above, in my April 27, 2009 Order, I found that although the Complainant had standing to raise a claim for payment of wages through the end of the labor application period, based on his claim that the Respondent discriminated against him, this issue was not investigated by the Administrator, and thus it was not properly before me.

The Complainant's pleadings now essentially make the argument that, for purposes of the LCA, he remained an employee of the Respondent until his termination was effective under the LCA. In other words, although both parties agree that the Respondent notified the Complainant of his termination in July 2007, the Complainant argues that he was entitled to payment of wages until June 12, 2009, when the Respondent tendered payment for the Complainant's return trip to Pakistan, and thus perfected its termination of the Complainant under the LCA.

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<sup>3</sup> The Complainant originally argued that he was entitled to wages through the end of the approved H1-B and labor condition application period, July 1, 2009

<sup>4</sup> The parties have acknowledged that, as reflected in Exhibit 6 of the Respondent's Motion for Summary Decision, that the Complainant remained on the Respondent's payroll, and was paid through July 31, 2007. This was confirmed in a telephone conversation with the parties on September 11, 2009, wherein the parties also confirmed that there was no remaining issue regarding improper deductions from the Complainant's pay.

However, after thoroughly reviewing the Complainant's original complaint, as well as his two interviews with investigators, I conclude that there is simply no basis for a finding that the issue of whether the Respondent effected a bona fide termination of the Complainant in July 2007, and thus whether the Complainant was entitled to payment of wages until the Respondent did so, was before the Administrator, investigated by the Administrator, or subject to determination by the Administrator.

The H-1B Nonimmigrant Information form, as well as the Complainant's two investigatory interviews, clearly raise the issue of whether he was paid for nonproductive time. But even under the most generous interpretation, they do not suggest that the Complainant was contesting the bona fide nature of his termination. This is not surprising, because he filed his complaint on July 18, 2007, before the Respondent's determination to fire him was final. There is absolutely nothing in the administrative file to even suggest that the Administrator had any notice of this issue. Although the administrative file clearly reflects that the Respondent had made a decision to terminate the Complainant's employment as early as December 2006, a decision that the Complainant pursued unsuccessfully through the Respondent's appeal process, there is no evidence to indicate that the Administrator interpreted the Complainant's claim to include any allegation that the Respondent improperly failed to pay him wages after June 30, 2007, the effective date of his termination, much less conducted any investigation of such a claim. Nor did the Administrator address any such claim in her determination.

The Complainant's initial complaint, as well as his two interview statements, were made before he was notified of the result of his appeal; thus, any inference that the Complainant contested the bona fides of this termination would necessarily be based on documents and pleadings submitted after the Complainant appealed the Administrator's determination.

The Complainant essentially argues that it is sufficient that the Respondent was on notice that he contested whether the Respondent effected a bona fide termination, and thus whether it owed him wages through the period of his authorized stay. Thus, the Complainant argues that the Respondent was placed on notice of the legal requirements it would be expected to follow if it chose to employ and later dismiss the Complainant, by virtue of its certification on the Labor Condition Application, and that the H-1B Nonimmigrant Information form he filed out on June 18, 2007 "squarely raised" the issue of payment for nonproductive time.

The Complainant points to the Administrator's determination that the Respondent failed to pay wages as required, and was liable for any ongoing violations, and argues that his July 16, 2008 request for a hearing, which was based on the Respondent's failure to pay him for nonproductive time, as well as the requirement of payment to an H1-B nonimmigrant worker unless there has been a termination that complies with the INA and implementing regulations, is the equivalent of raising the issue of a bona fide termination. Essentially, the Complainant is claiming that, because he requested "front pay," the Respondent could infer that he contested the bona fide nature of his termination.

But even if, by the time this claim was transferred to the Office of Administrative Law Judges for hearing, the *Respondent* was on notice that the Complainant was seeking "front pay,"

which could be interpreted to mean that he contested whether the Respondent had effected a bona fide termination, there is absolutely nothing to even suggest that the *Administrator* had any notice of this issue. Clearly, the Administrator did not have this claim before her, nor did she have the opportunity to investigate it or issue a determination on the Complainant's claim for wages after June 30, 2007.

The Complainant attempts to suggest that he indeed raised this issue before the Administrator, by checking box C of Section 4, claiming that this was the only box available for such a claim on the H-1B Nonimmigrant Information Form. I note that on this form the Complainant identified himself as a former employee, with his dates of employment from July 1, 2006 to February 19, 2007. I also note that at Section 4(q), space is provided for a party to describe "other" alleged violations that are not included in the list. The Complainant did not add anything in this section. More importantly, the Administrator did not investigate any such allegations, or issue a determination on them.

Based on the information provided to the Administrator by the Complainant, specifically, the July 18, 2007 Nonimmigrant Information form, and the Complainant's July 19, 2007 and June 26, 2007 interview statements, the Administrator was on notice that the Respondent had terminated the Complainant in February 2007, but that the Complainant had appealed that decision, a hearing had taken place, and the Complainant intended to further appeal the determination to terminate his employment. The Complainant's visa had not been cancelled. In the meantime, the Complainant was not being paid for his leave time or for his filing fee, and this was the issue that the Administrator investigated and addressed in her determination.

But nothing in the Administrator's determination or submission to this Court indicates that the Administrator addressed or investigated the question of whether the Respondent met the requirements to effect a bona fide termination of the Complainant's employment in July 2007, and thus whether it was required to pay the Complainant through the end of the visa period.

The documents in the file reflect that the Complainant was notified by letter dated July 2, 2007 that the Judicial Review Committee had determined to terminate his employment. By letter dated July 30, 2007, the Respondent notified the USCIS that the Complainant had been terminated, and requested that the H-1B visa be cancelled immediately. Thus, as of July 30, 2007, the Respondent had provided the Complainant with clear notice that the employment relationship was terminated,<sup>5</sup> and had notified the Department of Homeland Security that the employment relationship was terminated.

But there was no allegation before the Administrator that the Respondent improperly failed to pay the Complainant the required wages after the effective date of his termination. There was no claim that the Respondent did not provide clear notice to the Complainant of his termination, or that it did not provide notice to the Department of Homeland Security of the Complainant's termination. Nor did the Complainant allege that the Respondent had improperly

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<sup>5</sup> In his Motion for Summary Decision, the Complainant acknowledged that he learned in early July 2007 that the hearing resulted in confirmation of his termination; while he did not accept that as a valid decision, "for the purpose of this Motion for Summary Decision only," he conceded that it was clear to him by the end of July 2007 that the Respondent would not call him back to productive status.

failed to provide him with the cost of transportation back to Pakistan. Clearly, the question of whether the Respondent had the duty to provide the Complainant with the cost of transportation to Pakistan is disputed, with the Respondent arguing that the Complainant, who has married an American citizen, has no intention of returning to Pakistan, and thus it was not required to tender the cost of transportation back to Pakistan. But the Administrator did not have these issues before her, and did not investigate them or make a determination on whether the Respondent effected a bona fide termination of the Complainant as of July 30, 2007, and thus whether the Complainant was entitled to payment of wages after that time.

### **CONCLUSION**

I find that the Complainant's claim that he is entitled to payment of wages from July 30, 2007 until June 11, 2009, on the grounds that the Employer did not effect a bona fide termination until June 11, 2009, when it tendered payment for his return transportation to Pakistan, is an issue that was not the subject of investigation and determination by the Administrator, and thus I do not have the authority to conduct a hearing on this issue. With respect to the determination by the Administrator, there are no remaining disputes between the parties.<sup>6</sup>

### **ORDER**

Based on the foregoing, IT IS HEREBY ORDERED:

1. Respondent's Motion for Summary Decision is GRANTED.
2. Complainant's Motion for Summary Decision is DENIED.
3. The Administrator's July 1, 2008 determination is AFFIRMED.
4. Complainant's request for hearing is DISMISSED

SO ORDERED.

**A**

LINDA S. CHAPMAN

Administrative law Judge

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<sup>6</sup> In the recent pleadings and discussions with the Court, neither side has indicated that the issue of whether civil penalties should be assessed against the Respondent, or whether the Respondent should be barred from participating in the labor certification program in the future, are still in contention. In any event, even viewing the evidence in the light most favorable to the Complainant, I find that there is no basis for a finding that the Administrator abused her discretion in declining to impose civil penalties in this matter. As the Administrator did not find a willful violation with respect to the filing fee violation, there is no basis for a penalty with respect to this violation. Finally, as I noted in my April 27, 2009 Order, as the Administrator did not find a willful violation of the regulations, disqualification from the program is not required.

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).