

**U.S. Department of Labor**

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**Issue Date: 19 January 2010**

Case No.: 2008-LCA-00017

In the Matter of

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

v.

**ADVANCED PROFESSIONAL MARKETING, INC.  
and MARISSA BECK, INDIVIDUALLY AND PRESIDENT**  
Respondent

**DECISION AND ORDER  
ON RECONSIDERATION**

This matter arises under the Immigration and Nationality Act, as amended, 8 U.S.C. § 1182(n) (2005) (“INA” or “the Act”), and the regulations promulgated thereunder at 20 C.F.R. Part 655, Subparts H and I, C.F.R. § 655.700 et seq. Hearing in this matter was held on February 12, 2009. On December 31, 2009, I issued a Decision and Order that, among other things, directed the Administrator to recalculate back wages owed to many (but not all) of the 156 named individuals whose employment was at issue.

My Decision and Order did not provide any mechanism for my further review of the Administrator’s recalculated back wage determinations.

On January 7, 2010, at the request of counsel for the Administrator, a post-hearing telephonic session was held. This session was recorded by a court reporter. At the session, representatives for both parties indicated they requested that my Decision and Order prescribe a process for my review, after the Administrator’s determinations had been made. Transcript of post-hearing session (hereafter, “Transcript,” at 7-8).

I thereupon suggested that the parties submit a joint Motion for Reconsideration outlining a proposed procedure. Transcript at 8, 14. I informed the parties of specific parameters that I would like them to consider for such a Motion. Transcript at 14.

On January 8, 2010, the parties jointly submitted a Motion for Reconsideration, which requested that my Decision and Order be amended in specified aspects. Motion at 1-2.

I GRANT the parties’ joint Motion. Consequently, upon reconsideration, I hereby amend my earlier Decision and Order as follows:

1. I WITHDRAW that portion of my earlier Decision and Order pertaining to the parties' rights to appeal. Decision and Order at 38.
2. My Decision and Order of December 31, 2009, does not constitute a final Decision and Order. The following additional actions are directed:
  - a) With regard to the back wage computations directed in the Decision and Order of December 31, 2009, the Acting Administrator will submit modified back wage computations to me, not later than March 12, 2010.<sup>1</sup> See Decision and Order at 36-37; Appendices D, F, G.
  - b) The Respondent will file any objections to the Acting Administrator's modified back wage computations, not later than April 12, 2010.
3. After receipt and review of the Acting Administrator's modified back wage computations and the Respondents' objections, if any, I will issue a Final Decision and Order in this matter. If necessary, I will order an additional session of hearing to address any issues raised during the back wage recomputation process.
4. The period to file a Petition for Review with the Administrative Review Board will not begin to run until the date the Final Decision and Order is issued. When the Final Decision and Order is issued, I will also issue instructions to the parties regarding their appeal rights.
5. Though not specifically addressed in the parties' joint Motion, I direct that the Acting Administrator's modified back wage computations, as to each individual concerned, reflect the Acting Administrator's methodology as clearly and completely as possible. This is necessary not only to expedite my review, prior to issuance of the Final Decision and Order, but to ensure that the record of proceedings in this matter is complete.

SO ORDERED.

**A**

**ADELE H. ODEGARD**  
Administrative Law Judge

Cherry Hill, New Jersey

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<sup>1</sup> My Decision and Order of December 31, 2009 referred to the Administrator. As appropriate, the term "Acting Administrator" is substituted in the Order section of that document. Decision and Order at 37-38.

