



Issue Date: 06 December 2007

CASE NO. 2008-LCA-00002

In the Matter of:

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

v.

**MOREX ENTERPRISE, INC.,
*Respondent.***

DECISION AND ORDER
APPROVING SETTLEMENT AND CONSENT FINDINGS

The Administrator, Wage and Hour Division, United States Department of Labor, issued a Determination Letter On October 2, 2007, alleging violations of the H-1B provisions of the Immigration and Nationality Act of 1952 as amended by the Immigration Act of 1990, and the Miscellaneous 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, October 21, 1998; 112 Stat. 2681) found at 8 U.S.C. 1101 *et seq*; 8 U.S.C. 1101(a)(15)(H)(i)(b) and 8 U.S.C. §1182(n) *et seq.* ("INA"). The Prosecuting Party determined that the Respondent misrepresented a material fact on Labor Condition Applications submitted to the Department of Labor, required two H-1B workers to pay visa processing fees in violation of 20 C.F.R. §§ 655.731(c)(10)(ii) and 655.805(a)(11), failed to maintain records as required by 20 C.F.R. §§ 655.731(b); 738(e); 739(i); and 760(c), and failed to pay wages required in violation of 20 CFR §655.731 and 20 CFR § 665.805(a)(2). The Determination Letter assessed a civil money penalty against Respondent in the amount of \$11,450.00 as a result of these violations, notified Respondent that it owed \$88,636.76 in back wages to two H-1B nonimmigrant workers, and notified Respondent that it would be disqualified from approval of H-1B petitions for a period of two years. Respondent filed a timely request for hearing on October 5, 2007. Jurisdiction over these proceedings is vested in the Office of Administrative Law Judges by INA §212(n), 8 U.S.C. §1182(n), and 20 CFR Part 655.800 *et seq.* with respect to Respondent's request for a hearing concerning the alleged violations of the provisions of §1182(n) of the INA.

The parties filed a Joint Motion for Approval of Settlement and Entry of Consent Findings and Order that were signed by counsel for the Administrator, Prosecuting Party and by counsel for Respondent, Morex Enterprises, Inc., as well as by the President of Respondent. The Joint Motion for Approval of Settlement and Entry of Consent Findings and Order is marked for

identification as ALJ No. 1 and is attached hereto and made a part hereof. The parties' agreement resolves the claims raised by the Administrator's Determination Letter of October 2, 2007. 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.

ORDER

Upon review of the record and the terms of the Joint Motion for Approval of Settlement and Entry of Consent Findings and Order, it is determined that the terms of the settlement are fair and reasonable. The Consent Findings are hereby **APPROVED**.

IT IS ORDERED that:

1. Respondent shall pay the Civil Penalty Assessment of \$11,450.00, in the manner set forth in the Consent Findings.
2. Respondent shall pay back wages in the amount of \$88,636.76, in the manner set forth in the Consent Findings.
3. The U.S. Department of Labor, Employment and Training Administration, shall invalidate any current Labor Condition Applications with respect to future hires and shall not accept any new Labor Condition Applications from Respondent for a period of two years from the debarment date to be specified by the Department of Homeland Security.
4. Respondent shall be disqualified from approval of any H-1B petition for a period of two years from the debarment date to be specified by the Department of Homeland security pursuant to 20 C.F.R. §§ 655.855(c) and 655.810(d)(2).
5. The Determination Letter, Parties' Joint Motion for Approval of Settlement and Entry of Consent Findings and Order, together with this Decision and Order, shall constitute the final administrative findings and order in this case.
6. This Decision and Order shall have the same force and effect as an order made after full hearing.
7. The entire record upon which this Decision and Order is based shall consist solely of the Administrator's Determination Letter and the Parties' Joint Motion for Approval of Settlement and Entry of Consent Findings and Order executed by the parties.
8. Any further procedural steps before this Office and the Administrative Review Board are waived.

9. Any rights to challenge or contest the validity of this Decision and Order entered into in accordance with the Joint Motion for Approval of Settlement and Entry of Consent Findings and Order are hereby waived.
10. The hearing scheduled herein for February 20, 2008 is hereby **CANCELLED**.

A

Russell D. Pulver
Administrative Law Judge

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, Room S-4309, 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).