



Issue Date: 23 October 2008

CASE NO.: 2008-LCA-0012

In the Matter of:

ADMINISTRATOR,
WAGE & HOUR DIVISION,
Prosecuting Party,

vs.

MPDN INTERNATIONAL, INC. and MICHAEL PINKSER,
Respondents.

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT AND
CONSENT FINDINGS AND DISMISSING ACTION**

On January 29, 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. §1101, *et seq.*; (the "INA"), and the regulations promulgated at 20 C.F.R. Part 655, subparts H and I (collectively, the H1-B Program"). The Prosecuting Party determined that the Respondents had violated certain provisions of the H1-B Program. The Administrator found that Respondents MPDN International, Inc. and Michael Pinsker ("Respondents") owed \$4,500.00 for civil money penalties and back wages in the amount of \$292,445.38.

On October 22, 2008, the parties filed a Settlement Agreement and Consent Findings seeking joint approval of settlement and entry of consent findings order (the "agreement") which was signed by counsel for both parties and also by Respondent MPDN International, Inc.'s chief executive officer, Michael Pinsker, as MPDN's authorized representative and individually. The agreement seeks to settle and resolve all controversies and claims existing as a result of the Prosecuting Party's investigation. By way of the settlement, the Respondents agree to be jointly and severally liable for payment in full and complete settlement of all issues the sum of \$139,000.00 representing an agreed amount of back wages and \$1,000.00 as the accepted civil penalty owed by Respondents plus post-judgment interest.

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, the agreement is formally approved.

IT IS ORDERED that the agreement is **APPROVED** and incorporated into this Order, and the parties are further ordered to comply in full with the terms and conditions of their agreement forthwith.

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 January 29, 2008 determination letter with attachment "A" and the agreement with Exhibit A;
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. Each party shall bear all fees and other expenses (including any costs) incurred by such party in connection with any stage of this proceeding;
6. This Decision and Order shall be the final agency action; and
7. Respondents are jointly and severally liable and shall pay the \$1,000.00 civil money penalty, the \$139,000.00 in back wages, and the \$2,285.40 in post-judgment interest referred to above in installments as scheduled in the agreement and each Respondent will use its best efforts to maintain its familiarity with the Act's requirements and comply with the Act in the future.

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

A

GERALD M. ETCHINGHAM
Administrative Law Judge

San Francisco, California