



Issue Date: 17 February 2012

Case No.: 2009-LCA-00017

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION,

Complainant,

v.

CACHE NEXT GENERATION, LLC,

Respondent.

**FINAL ORDER APPROVING
THE PARTIES' SETTLEMENT AGREEMENT
AND CONSENT FINDINGS**

This matter involves the Immigration and Nationality Act (INA) H-1B visa program, 8 U.S.C. § 1101(a)(15)(H)(i)(b) and the implementing regulations promulgated at 20 C.F.R. § 655.700 *et seq.* On November 16, 2011, a hearing was held in Columbus, Ohio. At the hearing, counsel for the parties advised me that they had arrived at a settlement and they summarized the terms of the settlement on the record. After the hearing they memorialized their agreement in writing. I received the Settlement Agreement and Consent Findings on January 19, 2012.

Having reviewed the parties' Consent Findings I find that the terms of the settlement are fair and reasonable. To summarize the principal provisions of the settlement:

- 1) The Respondent, while not admitting any of the allegations in the Determination letter, agrees to pay, in full and complete settlement of all back wage issues set forth in the Determination Letter, the sum of \$65,000.00 representing an agreed amount of back wages to be paid to the workers identified in Appendix A of the Settlement Agreement, and the sum of \$10,000.00 representing an agreed civil money penalty.
- 2) The Respondent will pay the sum of \$50,000.00 to the Administrator of the date of signing of the agreement and will pay the additional sum of \$25,000 in five monthly installments, beginning on February 1, 2012. The last two monthly installments will constitute payment of the civil money penalty.

- 3) The debarment portion of the February 17, 2009 Determination Letter will be dismissed. In lieu of debarment, the Respondent agrees to provide quarterly reports of internal audits to the Wage and Hour Division for a period of two years. The reports will be prepared by an auditor who will be approved by the Department of Labor, Employment Standards Administration, Wage and Hour Division. The details of the auditing process are specified in the Settlement Agreement.
- 4) Each party agrees to bear its own costs, attorney fees and other expenses incurred in connection with any stage of this proceeding to date with no costs including, but not limited to, any and all costs referenced under the Equal Access to Justice Act, as amended.
- 5) The Respondent shall not request, solicit, suggest, or coerce, directly or indirectly, any employee to return or offer to return to the Respondent or to someone else for the Respondent any money for wages previously due or to become due in the future to said employee under the provisions of the Agreement, nor shall the Respondent discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against such employee because such employee has received or retained money due to him under the provisions of the Agreement.

Accordingly, I hereby **APPROVE** the parties' Settlement Agreement and Consent Findings, which will be included in the record.

A

KENNETH A. KRANTZ
Administrative Law Judge

KAK/mrc
Newport News, Virginia

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-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).