



**Issue Date: 01 July 2010**

CASE NO.: **2009-LCA-00002**

In the Matter of

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

v.

**LACONIA ASSOCIATES, INC.,**  
**ISLANDS BRANCH,**  
Respondent.

### **DECISION AND ORDER APPROVING STIPULATION**

This case was brought pursuant to 20 C.F.R. § 655.820 et seq., as amended by the interim final regulations published by the Department of Labor on December 20, 2000, 65 Fed. Reg. 80110 et seq. (2000) to implement the H-1B provisions of the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101(a)(15)(H)(i)(B) and 1182(n), and in accordance with 29 C.F.R. Part 18 of the Rules of Practice and Procedure of the Office of Administrative Law Judges.

On June 17, 2010, I received a Settlement Agreement and Consent findings from the parties. The parties stipulate, to an entry of findings, as follows:

1. These proceedings arise under the Immigration and Nationality Act of 1952, P.L. 82-414, 66 Stat. 163, as Amended by the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, and the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, P.L. 102-232, 105 Stat. 1733, 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. (“INA”), and 8 U.S.C. §1101(a)(15)(H)(i)(b). Jurisdiction over these proceedings is vested in the Office of Administrative Law Judges by the INA § 212(n), 8 U.S.C. § 1182(n), and 20 C.F.R. Part 655.800 ci seq. with respect to Laconia’s request for a hearing involving alleged violations of the provisions of section 1182(n) of the Act.
2. The issues resolved by this Settlement Agreement were identified initially during an investigation conducted by Wage and Hour covering the period from September 18, 2007 through September 22, 2008, with respect to Laconia’s petitioning for and employing H-1B

nonimmigrants.

3. On September 25, 2008, the Deputy Administrator's representative issued a Determination to Laconia detailing the findings of said investigation. The Determination alleged violations of section 1182(n) of the Act related to fifty-nine (59) H-1B nonimmigrant workers and determined that \$254,193.81 was due in back wages to the nonimmigrants.
4. Laconia will pay \$254,193.81 in wages due in accordance with the Determination Letter dated September 23, 2008, and \$16,089.37 in pre-judgment interest on the wages, for a total of \$270,283.18, by making the installment payments as outlined below in this Paragraph 2 and set forth in detail in attachment B. The initial payment shall be made on or before August 5, 2010, and additional payments each month thereafter as outlined in attachment B.
5. After three years, any monies which have not been distributed because of inability to locate the proper persons or because of their refusal to accept payment shall be covered into the Treasury of the United States as miscellaneous receipts;
6. In the event of default on any of the payments set forth in numbered paragraph 2 (Specific Provisions) above, the total balance of the amount of back wages shall become immediately due and payable and interest may be assessed in accordance with the Debt Collection Improvement Act of 1996 (Public Law 104-134) and Department of Labor policies outlined in the Determination Letter dated September 23, 2008, from the date of default until the total amount is paid in full.
7. Laconia withdraws its Request for Hearing filed in this matter, and consents to the affirmation of the matters set forth in the Determination Letter, as amended, issued by the Administrator on September 23, 2008.

### **Reporting and Enforcement**

1. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of these Consent Findings and Order, is retained by the Office of Administrative Law Judges.
2. Enforcement proceedings for violation of these Consent Findings and Order may be initiated at any time upon the filing with the Administrative Law Judge a motion for an Order of enforcement and sanctions.
3. Each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding, including but not limited to attorney's fees, which may be available under the Equal Access to Justice Act, as amended.
4. Laconia Associates, Inc., shall comply with 20 C.F.R. §§ 655.73 1(c), 655.734, 655.739, 655.760(c), and 655.730, in the future.
5. These Consent Findings and Order shall constitute the final Administrative Order in this

case.

The consent findings and order are made a part of the record.

I accept these stipulations as findings. In accordance with such Consent Findings, it is hereby:

**ORDERED**

1. That the terms and conditions set forth in the Consent Findings are AFFIRMED.

**A**

RICHARD K. MALAMPHY  
Administrative Law Judge

RKM/ccb  
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.