

Issue Date: 20 August 2010

UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
BOSTON, MASSACHUSETTS

ALJ Case No: 2010-LCA-00031

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ADMINISTRATOR, WAGE & HOUR DIVISION,  
UNITED STATES DEPARTMENT OF LABOR  
*Prosecuting Party*

v.

ALEX KAALI-NAGY DEVELOPMENT CORP.  
*Respondent*

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Before: Jonathan C. Calianos, Administrative Law Judge

Appearances:

Christine A. Collins, Esquire, (U.S. Department of Labor, Office of the Solicitor)  
Boston, Massachusetts, for Prosecuting Party

Alex-Kaali-Naghy, President, (Alex-Kaali-Naghy Development Corporation)  
New Canaan, Connecticut, for Respondent

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

This case arises from a request for hearing filed by the Respondent in the above captioned matter, which involves the enforcement of an H-1B Labor Condition Application by the Administrator, Wage & Hour Division, United States Department of Labor (“Administrator” or “Prosecuting Party”) under section 212(n) of the Immigration and Nationality Act (“the Act”), 8 U.S.C. §1101(a)(15)(H)(I)(b) and § 1182(n), and the regulations promulgated there under at 20

C.F.R. Part 655, Subparts H and I, 20 C.F.R. §655.700 *et seq.* On June 18, 2010, the Administrator, issued a determination that the Respondent violated the Act by failing to pay the required wage rate for productive work, failing to post notice of the filing of the Labor Condition Application, and failing to maintain documentation. The Administrator determined that the Respondent owed back wages totaling \$48,824.12 and additional back wages of \$1,032.64 as a result of overtime violations under the Fair Labor Standards Act. The Administrator further found that no additional civil monetary penalty was appropriate in this case. On July 7, 2010, the Respondent, pursuant to 20 C.F.R. § 655.820, timely filed a request for review of the Administrator's determination, alleging back wages were not owed as determined by the Administrator. A formal hearing was scheduled for August 17, 2010, in New London Connecticut. On August 11, 2010, the parties informed my office that the case was settled and I cancelled the scheduled hearing. On August 19, 2010, the parties filed a document entitled: Settlement Agreement and Consent Findings ("Agreement"). Upon review of the Agreement, I find that the terms are fair and reasonable and in substantial compliance with 29 C.F.R. § 18.9(b) and it is approved.

Pursuant to the Agreement the following order shall enter:

- (1) The Agreement is APPROVED and its terms are adopted and incorporated herein by reference;
- (2) The parties shall comply with each and every term contained in the Agreement;
- (3) Respondent agrees that it is liable for a total payment of \$25,000 in back wages, and it shall pay this amount in full as described below;
- (4) Respondent shall pay back wages in the amount of \$25,000 less deductions for the employee's share of social security and withholding taxes, within 90 days of entry of this Order approving the Consent Findings. Respondent shall transmit a certified copy or bank check or money order in the net amount of the wages made payable to: "Jose Mejia Agidelo or Wage-Hour Labor" and remit the same to:

Wage & Hour Division  
United States Department of Labor  
135 High Street, Room 210  
Hartford, CT 06103

Interest shall accrue on the outstanding balance at the rate of 1% per annum from the date of entry of these Consent Findings through the date of payment. Nothing herein shall prevent Respondent from paying the back wages owed sooner than provided in this Paragraph. The Administrator will distribute the check to the employee. Any sum not distributed to the employee or to his personal representative after three years, because of inability to locate the employee or because of his refusal to accept such sum shall be deposited with the Treasurer of the United States as miscellaneous receipts;

- (5) Respondent shall comply in all respects with the Act and applicable regulations in connection with any future H-1B applications;
- (6) Respondent's failure to carry out any portion of the Agreement shall subject Respondent to statutory penalties for failure to pay wages under 8 U.S.C. §1182(n) and 20 C.F.R. Part 655;
- (7) Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the terms of the Agreement is retained by the U.S. Department of Labor, Office of Administrative Law Judges ("OALJ");
- (8) Enforcement Proceedings for violation of the Agreement may be initiated any time by filing a motion requesting an order of enforcement and sanctions with the OALJ;
- (9) The entire record upon which this Order is based upon shall consist of the Administrator's determination, Respondent's request for hearing, and the Agreement;
- (10) The parties waive any further procedural steps before the Administrative Law Judge and any right to challenge or contest the validity of the Agreement and any Order issued in accordance with the Agreement;
- (11) The Agreement shall fully and finally resolve all outstanding issues between the parties that were raised, or reasonably could have been raised in the Administrator's determination of June 18, 2010;
- (12) The Agreement and this Order shall have the same force and effect as an order made after a full hearing;
- (13) Each party shall bear its own costs, attorney's fees and expenses; and

- (14) Nothing contained in the Agreement or this Order shall be deemed to bind any other governmental agency except the United States Department of Labor; and
- (15) The Agreement and this Order shall comprise my findings of fact and conclusions of law and shall constitute the full, final, and complete adjudication of this proceeding.

**SO ORDERED.**

**A**

**JONATHAN C. CALIANOS**  
Administrative Law Judge

Boston, Massachusetts