



Issue Date: 30 November 2010

Case No. 2010-LCA-8

In the Matter of:
ADMINISTRATOR, WAGE AND HOUR DIVISION,
U.S. DEPARTMENT OF LABOR,
Complainant,

v.

SS IT CONSULTING CORP.,
Respondent.

DECISION AND ORDER ENTERING DEFAULT JUDGMENT

This proceeding arises under the H-1B provisions (20 C.F.R. Part 655) of the Immigration and Nationality Act of 1952, amended by the Immigration Act of 1990 and the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (hereinafter referred to collectively as the "INA"), 8 U.S.C. § 1182(n), and its implementing regulations, which are located at 29 C.F.R. § 507.700 *et seq.*

On December 3, 2009, the Administrator notified SS IT Consulting Corp., Respondent, of his finding that back wages in the total amount of \$15,293.73 were due to two H-1B non-immigrant employees, \$6,240.00 to Karuna Chaudhary, and \$9,053.73 to Pradeep Pappu, for violations of the INA. A civil money penalty in the total amount of \$5,500.00 was also assessed against Respondent.

On February 4, 2010, I issued a Notice of Hearing scheduling this case for hearing on June 9, 2010, which required the parties to exchange certain information by May 7, 2010. On May 28, 2010, following Complainant's filing a Motion to Compel Respondent to respond to Complainant's First Requests for Production of Documents and to Complainant's First Requests for Admission to Respondent, I continued the hearing to allow for a resolution of the discovery issues and for Respondent to submit its response to the motion to compel.

Complainant Administrator, on November 15, 2010, by facsimile, served a Motion for an Order Declaring Respondent in Default for failure to defend and also for an Order deeming the facts set out in Complainant's Request for Admissions admitted, due to Respondent's failure to timely respond to discovery. Complainant submits the declaration of Beth Phillips-Glacken, Investigator with the Wage and Hour Division, Columbus, Ohio (Attachment J to motion). Respondent has not responded to the motion within rule. See 29 C.F.R. §§ 18.6(b), 18.4(d).

In support of the motion, the Administrator sets out Respondent, SS IT Consulting Corporation's failure to respond to a number of discovery requests served by Complainant, including "Administrator's Request for Production of Documents to Respondent (First Set)" and "Administrator's Request for Admissions to Respondent" (attached to Motion as Exhibit B (cover letter), and Exhibits C and D, respectively). The motion delineates the complete failure of the Respondent to respond to any of the requested discovery, despite a number of telephone calls, and electronic mail requests. The requests for admission of the matters relevant to the issues in the case include requesting the representative of Respondent to admit the following:

1. Admit that Respondent failed to pay the required wages as required in violation of 20 C.F.R. § 655.731;
2. Admit that Respondent required or accepted from an H-1B worker, payment or remittance of the additional petition fee incurred in filing an H-1B petition in violation of 20 C.F.R. § 655.731(c)(1)(ii);
3. Admit that Respondent failed to prove notice of the filing of the LCA as required under 20 C.F.R. § 655.734;
4. Admit that an H-1B non-immigrant work paid SS IT Consulting Corp. \$1,800.00 (prior to employment) to file a visa petition with U.S. Citizenship and Immigration Services (USCIS);
5. Admit that Respondent failed to provide a Labor Condition Application to one H-1B non-immigrant; and
6. Admit that Respondent failed to pay the required wage rate for productive work to two H-1B non-immigration workers.

To date, SS IT Consulting Corp. has failed to respond to all requested discovery and to comply with the Prehearing Order requiring the parties exchange information. Accordingly, I ORDER that the facts in Complainant's Request for Admissions are deemed admitted. I further enter a default judgment in this case resulting in a final determination of back wages in the total amount of \$15,293.73 being due, and a civil money penalty totaling \$5,500.00 assessed against Respondent, as set out in the Administrator's December 3, 2009 letter above. I hereby ORDER this matter DISMISSED.

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JOSEPH E. KANE
Administrative Law Judge

