

U.S. Department of Labor

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Issue Date: 11 March 2016

Case No.: 2011-LCA-00045

ARB No.: 12-049

In the Matter of

ARVIND GUPTA

Prosecuting Party

v.

COMPUNNEL SOFTWARE GROUP, INC.

Respondent

**FINAL ORDER APPROVING THE
PARTIES' SETTLEMENT AGREEMENT**

This matter arises under the Immigration and Nationality Act ("INA") H-1B visa program, 8 U.S.C. § 1101(a)(15)(H)(i)(b) and § 1182(n), and the implementing regulations promulgated at 20 C.F.R. § 655.700, *et seq.* The Prosecuting Party is not represented.

On February 1, 2012, Administrative Law Judge ("ALJ") Romano issued a decision in this matter in which he affirmed the Administrator's determination that the Respondent failed to pay \$6,976.00 in required wages to the Prosecuting Party in violation of 8 U.S.C. § 1182(n)(1)(A) and 20 C.F.R. § 655.731(c). In addition, ALJ Romano found the Respondent's liability discharged by confirmation of payment from the Administrator dated June 15, 2011. Finally, ALJ Romano affirmed the Administrator's determination that no other payment is due to the Prosecuting Party based on his complaint. Subsequently, on March 7, 2012, ALJ Romano denied the Prosecuting Party's motion for reconsideration.

The Prosecuting Party appealed ALJ Romano's decision and on May 29, 2014, the Administrative Review Board ("ARB") issued a Decision and Order of Remand. As ALJ Romano had retired, the matter was assigned to me for adjudication. On July 14, 2014, I issued a Notice of Assignment and Order Scheduling Briefs on Remand. However, Respondent appealed the ARB's decision to the U.S. District Court, Southern District of New York. On July 22, 2014, I issued an Order holding the matter in abeyance while it was before the U.S. District Court. On August 4, 2014, I denied the Prosecuting Party's motion for reconsideration of the Order holding the matter in abeyance. The Prosecuting Party appealed to the ARB, and on September 23, 2014, the ARB denied the appeal and closed the case.

On October 22, 2014, U.S. District Court Judge Scheindlin issued an order dismissing the appeal to her court, holding that as the ARB had remanded the matter to the Office of Administrative Law Judges, the ARB's decision was not final and thus unappealable. Thus, the matter is now before me for consideration of the issues the ARB raised in its May 29, 2014 Decision and Order of Remand. Consequently, by Order dated November 14, 2014, I lifted the Order of July 22, 2014 holding this case in abeyance.

On March 10, 2016, the original Settlement Agreement was received in the Office of Administrative Law Judges, Cherry Hill, New Jersey for my approval. Having reviewed the parties' Settlement Agreement, which is hereby incorporated by reference, I make the following findings:

- 1) The Settlement Agreement appears to be fair and reasonable, and reflects a fair and reasonable settlement.
- 2) The Respondent agrees to pay \$28,000.00 as settlement in full to one (1) H-1B non-immigrant.
- 3) On approval by the Court, Respondent shall pay the entire settlement amount of \$28,000.00 to the Prosecuting Party.
- 4) The parties agree that an Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing pursuant to 20 C.F.R. § 655.840 in accordance with 29 C.F.R. § 18.71(b)(1).
- 5) Each party agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

Accordingly, I hereby **APPROVE** the parties' Settlement Agreement and **DISMISS** this matter with prejudice.

SO ORDERED.

THERESA C. TIMLIN
Administrative Law Judge

Cherry Hill, New Jersey