U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 27 September 2011

CASE NO.: 2011-LCA-00003

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION, U. S. DEPARTMENT OF LABOR,
Prosecuting Party,

v.

ALREK BUSINESS SOLUTIONS, INC.,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This matter arises from the Prosecuting Party's enforcement of H-1B Labor Condition Applications under section 212(n) of the Immigration and Nationality Act, 8 U.S.C. § 1182(n), as amended, and the implementing regulations set forth at 20 C.F.R. Part 655, Subpart I. A hearing in this matter was scheduled for June 28, 2011, in Chicago, Illinois. The parties requested a continuance, and on April 14, 2011, I issued an order cancelling the formal hearing.

Subsequently, on September 7, 2011, the parties filed a Settlement Agreement and Consent Findings and attached exhibits. The Settlement Agreement is signed by Praveen K. Goud, President, Alrek Business Solutions, Inc., ("Respondent" or "Alrek") and Linda J. Ringstad, attorney for the Prosecuting Party, Administrator, Wage and Hour Division, U.S. Department of Labor ("Administrator").

According to the terms of the Settlement Agreement submitted by the above-named parties, Respondent agrees to pay to the Administrator $32,500 in civil money penalties and $150,510 in wages due the H-1B nonimmigrants identified in the attached Exhibit A, plus post-judgment interest. With respect to the specific terms of the Settlement Agreement, I have reviewed it in its entirety. Jurisdiction under the Act is undisputed. The form and substance of the application conform to the requirements of 29 C.F.R. § 18.9.

The parties stipulate, to an entry of findings, as follows:

The disputed issues in this case were identified during an investigation conducted by the Wage and Hour Division, covering the period from August 1, 2007, to August 31, 2009, relating to Respondent's petitioning for and employing H-1B nonimmigrants. On October 22, 2010, the

Administrator's representative issued a Determination to Respondent detailing its findings. On November 2, 2010, within the time period provided by 20 C.F.R. § 655.820, Respondent filed a Request for Hearing, contesting the findings contained in the Determination, with the Office of Administrative Law Judges.

Pursuant to the agreement of the parties, the Administrator amends Violation No. 1 of the Determination:

> **Amended Violation No. 1:** Alrek Corporation ("Alrek") failed to pay wages as required in violation of 20 C.F.R. § 655.731. See 20 C.F.R. § 655.805(a)(2).
>
> The violation includes failure to pay the required wage rate for productive work and nonproductive time.
>
> **Remedy:** No civil money penalty is assessed. Alrek is ordered to pay back wages in the amount of $150,510 to 32 H-1B nonimmigrant workers. Alrek must pay wages by certified check made payable to the Wage-Hour Labor for distribution to the 32 workers. (The employer remains responsible for paying its share of any applicable taxes to the appropriate State and Federal revenue authorities.) Alrek is ordered to comply with 20 C.F.R. § 655.731 in the future.

The parties agree that amended Violation No. 1 shall be affirmed by the Court. The parties also agree that Violation No. 2, Violation No. 3, Violation No. 4, Violation No. 5, and Violation No. 6 are affirmed as issued in the Determination. Furthermore, the parties agree the U.S. Department of Labor's Employment and Training Administration and the Department of Homeland Security shall be notified of Respondent's violations, specifically concerning Violations Nos. 2–4.

Henceforth, Respondent agrees to comply with the provisions of the Immigration and Nationality Act, and applicable regulations, in petitioning for and employing H-1B nonimmigrants. Respondent withdraws its Request for Hearing, and agrees to pay to the Administrator $32,500 in civil money penalties and $150,510 in wages due the H-1B nonimmigrants identified in the attached Exhibit A, plus post-judgment interest. With the execution of this Settlement Agreement, Respondent shall pay $50,000 to the Administrator and the remaining amount of back wages, civil money penalties, and post-judgment interest shall be paid in accordance with the installment plan in the attached Exhibit B. Furthermore, payment shall be made to the Administrator according to the procedure outlined in the Settlement Agreement. The Wage and Hour Division shall distribute the amounts due the H-1B nonimmigrants according to the procedure outlined in the Settlement Agreement. Respondent shall pay any and all costs and expenses incurred by the Administrator in enforcing the terms and conditions of this Settlement Agreement.

This Settlement Agreement resolves all issues raised in this case, for the period of August 1, 2007, to August 31, 2009. The record upon which this Order is entered consists solely of the Determination issued by the Administrator and this Settlement Agreement and attached exhibits.

Each party agrees to bear its own costs, attorney's fees, and other expenses incurred by such party in connection to this proceeding, including, but not limited to, any and all costs referenced under the Equal Access to Justice Act, as Amended.

By entering into consent findings, the parties have accepted certain obligations and agreed to specific actions which resolve all existing issues. Considering all the circumstances in this case, I find that the amount of the settlement is adequate and reasonable, and that the proposed settlement has not been procured by duress. Having carefully considered the provisions of the Settlement Agreement and Consent Findings, I conclude that the resolution is fair and legally sufficient. The findings contained herein are based upon the agreed facts and representations contained in the Settlement Agreement and Consent Findings, and attached exhibits, copies of which are attached hereto, incorporated herein, and made part hereof.

ORDER

In accordance with 29 C.F.R § 18.9, it is hereby **ORDERED** that the Settlement Agreement and Consent Findings submitted for approval are **APPROVED**, and the parties are directed to carry out the requirements of the settlement.

IT IS FURTHER ORDERED that the liability of Respondent for all back wages and penalties, plus accrued interested, will be **TERMINATED** and **DISCHARGED** upon compliance by Respondent with the requirements of the Settlement Agreement.

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CHRISTINE L. KIRBY
Administrative Law Judge

Washington, D.C.