



Issue Date: 22 March 2012

Case No. 2011-LCA-67

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

v.

LAKE COUNTY LANDSCAPE & SUPPLY, INC.,
Respondent.

DECISION AND ORDER ENTERING DEFAULT JUDGMENT

This proceeding arises under Subpart A of the H-2B 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. § 1101(a)(15)(H)(ii)(b) *et seq.* and its implementing regulations, which are located at 29 C.F.R. § 507.700 *et seq.*

On September 8, 2011, the Administrator notified Sharon Hagan, Vice President of Lake County Landscape & Supply, Inc. (Respondent), that her firm had substantially failed to meet a condition on the Application in violation of 20 C.F.R. § 655.60(b). A civil money penalty in the total amount of \$2,500.00, plus interest, was assessed against the Respondent. By letter dated September 22, 2011, Ms. Hagan on behalf of the Respondent requested a formal hearing.

On October 6, 2011, I issued a Preliminary Order, which required the parties to respond within three days. On October 20, 2011, counsel for the Administrator explained that she did not receive my order until October 18, 2011, and submitted its Response. After receiving no response from the Respondent, my office spoke to Ms. Hagan and was told that she was interested in paying the assessed penalty.

In a Motion for Default Judgment submitted on January 23, 2012, counsel for the Administrator stated that the Respondent had not responded to its attempts to contact Ms. Hagan. Counsel for the Administrator asserted that it was prejudiced in its ability to prepare for hearing due to the lack of response.

On February 29, 2012, the undersigned issued an Order for the Respondent to Show Cause for its lack of participation in the proceedings to date. Citing the Administrator’s Motion for Default Judgment, I ordered the Respondent to show cause why it should not be found to be

in default, and furthermore advised the Respondent that failure to respond to my Order by the date given would cause the undersigned to issue an order of default, affirming the determination letter. No response was received.

The regulations at 29 C.F.R. § 18.29 provide that a request for hearing may be dismissed upon its abandonment by the party who filed it. By virtue of the regulation at 20 C.F.R. § 655.72(a), this rule specifically applies to the proceedings to enforce H2-B Labor Condition Applications.

To date, the Respondent has failed to respond to the undersigned's Order to Show Cause, as well as my Preliminary Order. Counsel for the Administrator avers that she has been unable to solicit a response from the Respondent. The last contact with this office indicated that the Respondent was interested in paying the penalty. Under these circumstances, due to the Respondent's utter failure to respond to two of my Orders, the Respondent is deemed to have abandoned its request for a hearing. Further, its failure to provide a response has prejudiced the Administrator in her ability to prepare for the hearing in this matter.

Accordingly, default judgment is entered in this case for the civil money penalty totaling \$2,500.00 including any interest as provided by statute and regulation, as set out in the Administrator's September 8, 2011, letter. Furthermore, I hereby **ORDER** this matter be **DISMISSED**.

A

JOHN PAUL SELLERS III
Administrative Law Judge