



Issue Date: 24 July 2012

Case No. 2011-LCA-19

In the Matter of:
ADMINISTRATOR WAGE & HOUR DIVISION,
Prosecuting Party,

v.

RENEE SYSTEMS, INC.,
Respondents.

**DECISION AND ORDER APPROVING SETTLEMENT
AGREEMENT AND CONSENT FINDINGS
AND CANCELLATION OF HEARING**

This proceeding arises under the H-1B provisions of the Immigration and Nationality Act of 1952, as amended by the Immigration Act of 1990, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, and the American Competitiveness and Workforce Improvement Act of 1998, found at 8 U.S.C. §§ 1101, *et seq.*, 8 U.S.C. § 1101 (a)(15)(H)(i)(b) (hereinafter referred to collectively as the "INA"), and its implementing regulations, which are located at 20 Part 655, Subparts H and I.

The Prosecuting Party, Administrator, Wage and Hour Division, United States Department of Labor ("Administrator"), determined that Renee Systems, Inc., failed to: 1) pay wages as required; 2) misrepresented a material fact on the Labor Condition Application as required; 3) failed to provide notice of the LCA filing as required; 4) failed to make the required secondary displacement inquiry; 5) failed to maintain documentation as required; and 6) failed to cooperate in the investigation as required. On February 23, 2011, the Administrator's representative issued a determination letter to Respondent detailing its findings with respect to the above violations. The Respondent filed a timely request for hearing on March 1, 2011.

Jurisdiction with respect to Respondent's request for a hearing concerning the alleged violations of the provisions of § 1182(n) of the INA is vested in the Office of Administrative Law Judges by INA § 212(n), 8 U.S.C. § 1182(n) and 20 CFR Part 655.800, *et. seq.*

A Notice of Hearing and Pre-Hearing Order was issued on May 5, 2011, setting this case for hearing on August 8, 2011, in Cleveland, Ohio. That hearing was cancelled and it was reset for hearing on March 6, 2012. However, on February 13, 2012, an Order Cancelling Hearing was issued because the parties advised that they had settled the case and a hearing was no longer necessary. On June 12, 2012, after no settlement was sent in, this matter was set for hearing on July 31, 2012. On July 19, 2012, the parties settled the case and submitted their Consent Findings. The Consent Findings are signed by Sandra Kramer, counsel for the Prosecuting

Party, and by Charles Kuck, counsel for the Respondent, and Shiva Pedapally, President of Renee Systems, Inc. In the Consent Findings, which are incorporated herein, the parties have accepted certain obligations and agreed to specific actions which resolve all existing issues.

ORDER

Upon review of the record and the terms of the parties' consent findings, I find that the terms of the settlement are fair and reasonable. Accordingly, **IT IS HEREBY ORDERED** that:

1. The Administrator and Respondent have agreed to settle the matter alleged in the Determination Letter of February 23, 2011, with respect to Renee Systems, Inc. Renee Systems, Inc., further agrees to comply with the provisions of the INA and the applicable regulations in the future with respect to Renee Systems, Inc., petitioning for and employing H-1B non-immigrants.
2. Renee Systems, Inc., agrees to pay to the Administrator, in full and complete settlement of all back wage issues raised in the Administrator's Determination Letter addressing Renee Systems' payment of requisite wages in this proceeding, the sum of \$185,383.54, the agreed amount of back wages to be paid to the H-1B non-immigrants, as identified in Appendix A, attached hereto.
3. Of the back-wages amount of \$185,383.54, Renee Systems, Inc., shall pay the sum of \$50,000.00 to the Administrator on the date of signing this agreement. In addition, Renee Systems, Inc., will pay the remainder of \$135,383.54 in five (5) installments. The first four installments will be in the amount of \$30,000.00 and the final installment will be in the amount of \$15,383.54. The first installment, in the amount of \$30,000.00, will be paid on November 1, 2012; the second installment, in the amount of \$30,000.00, will be paid on February 1, 2013; the third installment, in the amount of \$30,000.00, will be paid on May 1, 2013; the fourth installment, in the amount of \$30,000.00, will be paid on August 1, 2013; and the final installment, in the amount of \$15,383.54, will be paid on November 1, 2013. The provisions of this Settlement Agreement relative to the payment of back wages shall be deemed satisfied when Renee Systems delivers to the Administrator the final payment. In an event of default by Renee Systems, the amount shall be immediately due and owing and shall be subject to assessment of such interest and costs as required by the Debt Collection Improvement Act of 1996.
4. Upon receipt of the payments referenced above, the Wage and Hour Division will distribute such amounts to the employees identified in Appendix A, attached hereto, or to their estates, if that be necessary. Any amounts of unpaid compensation not so paid within a period of three years from the date of receipt thereof, because of inability to locate the proper

persons or because of their refusal to accept it, shall be covered into the Treasury of the United States as miscellaneous receipts.

5. The provisions for debarment contained in the February 23, 2011, Determination Letter shall be dismissed. In lieu of debarment, Renee Systems, Inc., agrees to provide certified semi-annual reports of internal audits to the Wage and Hour Division for a period of three (3) years.
6. The civil money penalty in this matter shall be amended to \$14,600.00. The civil money penalty shall be paid by means of a separate check made payable to the Wage and Hour Division/U.S. Department of Labor and sent to the following address: United States Department of Labor, Office of the Solicitor, 817 Federal Office Building, 1240 East 9th Street, Cleveland, Ohio 44199, on November 1, 2013, along with the final back-wages payment as described in paragraph 3 above.
7. Each party agrees to bear its own costs, attorney fees, and other expenses incurred by such party in connection with any stage of this proceeding to date. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits.
8. This Settlement Agreements resolves all issues raised by the Administrator's Determination Letter of February 23, 2011, with respect to Renee Systems, Inc.
9. The parties are hereby deemed to have waived any further procedural steps before the undersigned or the Secretary of Labor, as appropriate, regarding the matters which are the subject of their Consent Findings.
10. The Determination Letter, and the parties' Settlement Agreement and Consent Findings, together with this Decision and Order, shall constitute the final administrative findings and Order in this case.
11. The hearing scheduled for July 31, 2012 in Cleveland, Ohio, is CANCELLED.

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JOHN P. SELLERS III
Administrative Law Judge