



Issue Date: 22 December 2011

Case No.: **2011-LCA-53**

In the Matter of:
ADMINISTRATOR, WAGE & HOUR DIVISION,
Complainant

v.

SITEK, INC.,
Respondent

**DECISION AND ORDER APPROVING SETTLEMENT
AGREEMENT AND CONSENT FINDINGS**

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 Sitek, Inc., failed to pay wages as required for productive work and nonproductive time. On June 20, 2011, the Administrator's representative issued a determination letter to Respondent, Sitek, Inc., detailing its findings with respect to the above violations. The Respondent filed a timely request for hearing on July 5, 2011. Jurisdiction over these proceedings 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.*, with respect to Respondent's request for a hearing concerning the alleged violations of the provisions of § 1182(n) of the INA.

A Notice of Hearing and Pre-Hearing Order was issued on September 9, 2011 setting this case for hearing on December 6, 2011 in Lexington, Kentucky. On November 17, 2011, a Cancellation of Hearing was issued cancelling the hearing because the parties advised that they settled this case and a hearing was no longer necessary. On December 15, 2011, the parties submitted Consent Findings. The Consent Findings are signed by Jennifer Booth Thomas, counsel for the Prosecuting

Party, and by Charles R. Baesler, Jr., counsel for Respondent, Sitek, Inc. In the Consent Findings, 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. Respondent expressly waives any and all claims of whatsoever nature that it may have against the Administrator, or any of her officers, agents, employees, or representatives, arising out of or in connection with the filing, prosecution, and maintenance of this civil action or any other proceeding and investigation incident thereto.
2. The Consent Findings represent a complete settlement of all the Administrator's claims asserted in this action against Respondent. The Consent Findings are not binding upon any government agency other than the U.S. Department of Labor and only resolve claims arising out of this action as between the Administrator and Respondent.
3. Respondent agrees to pay wages in the amount of \$10,257.15 to Ms. Samatha Mikkilineni and wages of \$4,872.00 to Mr. Ranganath Mutyala. These wage payments will be made by separate cashier's checks or certified checks made payable to Mr. Ranganath and Ms. Millilineni. These checks will be forwarded to the attorneys for the Department of Labor for receipt no later than **January 16, 2012**. The attorneys for the Department of Labor will then distribute the check to Mr. Ranganath and Ms. Mikkilineni.
4. In the future, Respondent agrees to obtain the Labor Condition Applications applicable to the work locations in accordance with subpart H or I in violation of 20 C.F.R. § 655.730(c)(5) and 20 C.F.R. § 655.735. See 20 C.F.R. § 655.805(a)(16).
5. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits.

6. The entire record on which this Decision and Order is based consists solely of the Administrator's Determination Letter and the Consent Findings executed by the parties.
7. 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.
8. Any rights to challenge or contest the validity of this Decision and Order entered into in accordance with the Consent Findings are hereby waived.
9. The Determination Letter, and the parties' Consent Findings, together with this Decision and Order, shall constitute the final administrative findings and order in this case.
10. The hearing scheduled for December 6, 2011 in Lexington, Kentucky was cancelled.

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JOSEPH E. KANE
Administrative Law Judge