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Issue Date: 02 May 2016

OALJ CASE No: 2012-LCA-00044

In the Matter of:

**ADMINISTRATOR, WAGE AND
HOUR DIVISION,**
Prosecuting Party,

v.

**VOLT MANAGEMENT CORP.,
d/b/a VOLT WORKFORCE SOLUTIONS,**
Employer.

Order on Partial Consent Findings

This matter arises under the Immigration and Nationality Act, as amended, 8 U.S.C. §§ 1101(a)(15)(H)(i)(b), 1184(c), and 1186, and the regulations promulgated thereunder at 20 C.F.R. Part 655, Subparts H and I (“the H-1B Regulations”).

On June 13, 2012, Prosecuting Party, the Administrator of the Wage and Hour Division of the United States Department of Labor, issued Respondent Volt Management Corp. a notice of determination (the “Determination Letter”), alleging that Volt had failed to pay wages as required by 20 C.F.R. § 655.731. On July 12, 2012, Volt

made a timely request for a hearing in accordance with 20 C.F.R. § 655.820 denying generally and specifically all allegations, findings, and assessments contained in the Determination Letter.

The parties now desire to resolve a portion of the Administrator's claims in these proceedings, and stipulate pursuant to 29 C.F.R. § 18.71 to these Partial Consent Findings and the entry of an order based upon them without the need for a hearing. Accordingly, in partial settlement of the matters alleged in the Determination Letter, the parties agree as follows:

1. Volt shall make a payment of \$12,006.00, representing back wages payable to Sergey Nefedyev for nonproductive time between June 30, 2009 and August 13, 2009. This payment shall fully and finally resolve all outstanding issues between the parties that were raised in the Determination Letter and this proceeding in regard to the Administrator's claim for back wages on behalf of Mr. Nefedyev during this time period.

2. Volt shall deduct income taxes and Mr. Nefedyev's share of Federal Insurance Contributions Act payments from the gross back wages of \$12,006.00, and shall remit these deductions to the appropriate agencies. Volt shall remit a cashier's check in the amount of the net back wages after these deductions, payable to the order of "Sergey Nefedyev or Wage and Hour Division – Labor"

and delivered concurrently with these executed Partial Consent

Findings to:

Brian Schmidt,
Trial Attorney
U.S. Department of Labor
Office of the Solicitor
90 Seventh Street, Suite 3-700
San Francisco, CA 94103

Along with the payment, Volt shall provide the Administrator a schedule showing Sergey Nefedyev's last known address, phone number, taxpayer identification number, gross amount of wages due, amounts deducted from gross wages, and the net amount of payment. Volt shall be responsible for paying any employer-based taxes it may owe in connection with the back wage payment. The Administrator shall distribute the net back wages to Mr. Nefedyev (or to his estate if necessary). Any money not paid pursuant to this paragraph within three years of the date of the Administrator's receipt of the settlement payment, either because the Administrator has been unable to locate the recipient or because the recipient has refused to accept payment, shall be deposited in the Treasury of the United States as miscellaneous receipts.

3. The parties do not intend these Partial Consent Findings to resolve any of the Administrator's claims in these proceedings except for those relating to nonproductive time spent by Mr. Nefedyev between June 30, 2009 and August 13, 2009. The Administrator

reserves the right to oppose any motion for summary decision on his remaining claims and to appeal any adverse final order relating to his remaining claims.

4. Each party to these Partial Consent Findings agrees to bear its own costs, attorneys' fees, and other expenses incurred in connection with any stage of this proceeding, including but not limited to any costs referenced by the Equal Access to Justice Act, relating to the Administrator's claim for back wages for nonproductive time on behalf of Mr. Nefedyev for the time period between June 30, 2009 and August 13, 2009.

5. Pursuant to 29 C.F.R. § 18.71(b), the parties to these Partial Consent Findings further agree:

- a. that the order to be entered approving these Partial Consent Findings shall have the same force and effect as an order made after a full hearing;
- b. that the entire record on which the order approving these Partial Consent Findings is based relating to the Administrator's claim for back wages for nonproductive time on behalf of Mr. Nefedyev for the time period between June 30, 2009 and August 13, 2009, shall consist solely

of the Determination Letter and this agreement;

- c. to waive any further procedural steps before the administrative law judge and the Administrative Review Board regarding all matters that are the subject of these Partial Consent Findings, i.e. relating to the Administrator's claim for back wages for nonproductive time on behalf of Mr. Nefedyev for the time period between June 30, 2009 and August 13, 2009; and
- d. to waive any right to challenge or contest the validity of these Partial Consent Findings and any order entered in accordance with the same relating to the Administrator's claim for back wages for nonproductive time on behalf of Mr. Nefedyev for the time period between June 30, 2009 and August 13, 2009.

So Ordered.

San Francisco, California

William Dorsey
ADMINISTRATIVE LAW JUDGE