



Issue Date: 17 December 2012

Case No. 2012-LCA-51

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

v.

ABACUS CONSULTANCY SERVICES, LLC.
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 Abacus Consultancy Services, LLC ("Abacus"): 1) misrepresented a material fact on the Labor Condition Application, 2) failed to pay wages as required, 3) substantially failed to provide notice of the filing of the Labor Condition Application, 4) failed to specify accurately the wage rate and conditions of employment on the Labor Condition Application, and 5) failed to maintain documentation as required. On July 5, 2012, the Administrator's representative issued a determination letter to Respondent, Abacus Consultancy Services, LLC, detailing its findings with respect to the above violations. The Respondent filed a timely request for hearing on July 20, 2012.

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.*

An Order was issued on September 21, 2012, by the undersigned granting the parties' request to waive the time constraints on scheduling a hearing, and giving the parties time to try to settle the case. On December 6, 2012, the parties submitted their Settlement Agreement and Consent Findings. The Consent Findings are signed by Matthew McCracken, counsel for the Prosecuting Party; Jitender Sen, owner of the Abacus Consultancy Services, LLC, and Java R&D Labs, Inc.; and by Mary E. Pivec, counsel for Abacus Consultancy Services, LLC. In the

Consent Findings, the parties have accepted certain obligations and agreed to specific actions which resolve all existing issues.

The parties are commended for settling this matter professionally and amicably without resort to hearing.

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 Abacus have agreed to settle the matter alleged in the Determination Letter of July 5, 2012. Abacus further agrees to comply with the provisions of the INA and the applicable regulations in the future with respect to Abacus's petitioning for and employing H-1B non-immigrants.
2. The Settlement Agreement and Consent Findings are attached and hereby incorporated by reference and made a part of this Decision and Order. The terms of the Settlement Agreement and Consent Findings in all of their particulars have the same force and effect of a Decision and Order made after a full hearing on the merits, and compliance with their terms is expressly made part of this Decision and Order.
3. The entire record on which this Decision and Order is based consists solely of the Administrator's Determination Letter and the Settlement Agreement and Consent Findings executed by the parties.
4. 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 Settlement Agreement and Consent Findings.
5. Any rights to challenge or contest the validity of this Decision and Order entered into in accordance with the Settlement Agreement and Consent Findings are hereby waived.
6. 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.

SO ORDERED.

JOHN P. SELLERS III
Administrative Law Judge