

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 27 November 2012

Case No.: 2012-LCA-00036

In the Matter of:

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

v.

SRIVEN INFOSYS, INC.
Respondent

**FINAL ORDER ADOPTING PARTIES’
CONSENT FINDINGS**

This matter arises under the Immigration and Nationality Act (“INA”) H-1B visa program, 8 U.S.C. § 1101(a)(15)(H)(i)(b) and § 1182(n), and the implementing regulations promulgated at 20 C.F.R. § 655.700, et seq.

On November 13, 2012, counsel for the Administrator submitted the parties’ executed *Consent Findings*. The parties’ filing contains the following stipulations:

1. This action arises under the Immigration and Nationality Act of 1952, P.L. 82-414, 66 Stat. 163, codified as amended at 8 U.S.C. § 1101 *et seq.* (the “INA”), as amended by the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, P.L. 101-232, 105 Stat. 1733, and the American Competitiveness and Workforce Improvement Act of 1998, P.L. 105-277, 112 Stat. 2861-641. Jurisdiction over the hearing in this matter is vested in the U.S. Department of Labor, Office of Administrative Law Judges, by the INA at § 212(n)(2) and 20 C F R §§ 655.820-840.

2. On May 15, 2012, the U.S. Department of Labor, Wage and Hour Division, issued a determination letter (“Determination Letter”) alleging violations of the H-1B provisions of the INA and 20 C F R Part 655, Subparts H and I, to Respondent SRIVEN INFOSYS, INC.

3. On May 25, 2012, Respondent SRIVEN INFOSYS, INC. filed a timely request for a hearing with respect to the allegations of violations set forth in the Determination Letter.

4. Respondent SRIVEN INFOSYS, INC. admits that it failed to pay 18 H-1B non-immigrants the required wage, as required by 8 U.S.C. § 1182(n)(2)(C)(vii), 20 C.F.R. § 655.731 and 20 C.F.R. § 655.805(a)(2). As a result of Respondent's failure to pay required wages, the amount of \$39,365.40 is due to the 18 H-1B non-immigrants.

5. Respondent SRIVEN INFOSYS, INC. agrees to pay \$39,365.40 in back wages (the "Back Wages Payment") to the individuals listed on Schedule A, attached. The Back Wages Payment shall be made on or before November 15, 2012, by delivering a lump-sum certified check made payable to "**Wage and Hour Division - Labor**" in the amount of \$39,365.40 to the following address:

U.S. Department of Labor
Wage and Hour Division, Regional Office
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317
Attn: James Kolpack

"**Case No. 1489138**" shall be written on the face of the check.

The Deputy Administrator shall deliver the proceeds of the check less any legal deductions to the 18 H-1B non-immigrants, as specified on Schedule A. In the event that the Back Wages Payment is not received by the U.S. Department of Labor, Wage and Hour Division, by November 15, 2012, the entire amount due as back wages as described in this Paragraph 5 and the entire amount due as civil money penalty as described in Paragraph 7 shall become due immediately. Any portion of the Back Wages Payment that is paid by Respondent SRIVEN INFOSYS, INC., but remains undistributed for one year because of the parties' inability to locate the employee or the employee's representative shall be deposited with the Treasurer of the United States.

6. Respondent SRIVEN INFOSYS, INC. admits that it substantially failed to provide notice of the filing of Labor Condition Applications at each place of employment where any H-1B non-immigrant was to be employed, in violation of 20 C.F.R. § 655.734 and 20 C.F.R. § 655.805(a)(5).

7. Respondent SRIVEN INFOSYS, INC. admits that it misrepresented material facts on Labor Condition Applications, in violation of 20 C.F.R. § 655.730 and 20 C.F.R. § 655.8805(a)(1).

8. As a result of the violations described in Paragraphs 6 and 7 above, a civil money penalty in the amount of \$90,000.00, plus \$456.21 in interest, is assessed pursuant to 20 C.F.R. § 655.810(b)(1)(ii). Respondents agree to pay this civil money penalty and related interest. Payment of the civil money penalty and interest shall be made in accordance with the installment plan set forth on Schedule B, attached (each payment set forth on Schedule B, an "Installment Payment"). Each Installment Payment shall be made by Respondent by delivering a lump-sum certified check made payable to "**Wage and Hour Division - Labor**" in the amounts set forth on

Schedule B to the following address:

U.S. Department of Labor
Wage and Hour Division, Regional Office
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317
Attn: Rita Gahagan

“**Case No. 1489138 (CMP)**” shall be written on the face of each check.

In the event that any Installment Payment is not received by the U.S. Department of Labor, Wage and Hour Division within 10 days of the due date as set forth on Schedule B, each remaining Installment Payment shall become due immediately.

9. In the event of a default on the Back Wages Payment and/or the Installment Payment provisions in Paragraphs 5 and/or 8 and Schedules A and/or B of these Consent Findings and Order, the Deputy Administrator may enforce these Consent Findings and Order by filing for a Judgment in an action under the Federal Debt Collection Procedures Act (28 U.S.C. § 3001 *et seq.*), an action in contract, an action for debt, an action to enforce a civil fine, penalty or pecuniary forfeiture (28 U.S.C. § 2461), or pursuant to any other applicable cause of action.

10. Respondent SRIVEN INFOSYS, INC. admits that it failed to comply with the provisions of Subpart H or I in violation of 20 C.F.R. § 655.735(f) and 20 C.F.R. § 655.805(a)(16), specifically by failing to file Labor Condition Applications for locations at which H-IB employees were placed on a long-term or permanent basis. No civil money penalty has been assessed for this violation.

11. Respondent SRIVEN INFOSYS, INC. stipulates that the violations set forth in Paragraphs 6 and 7 shall be deemed admitted for the purposes of disqualification from approval of any petitions filed by, or on behalf of, Respondent pursuant to 20 C.F.R. § 655.810(d)(1).

12. Respondent SRIVEN INFOSYS, INC. consents to disqualification from approval of any petitions filed by, or on behalf of, Respondent pursuant to INA § 204 or § 214(c) for a period of one year, in accordance with 20 C.F.R. § 655.810(d)(1). The Wage and Hour Division of the U.S. Department of Labor shall notify the Attorney General of these Consent Findings and Order pursuant to 20 C.F.R. § 655.855.

13. It is further expressly agreed that it is the intent of the parties that the provisions of Paragraphs 11 and 12 be construed broadly and that Respondent SRIVEN INFOSYS, INC. be absolutely, conclusively and totally disqualified from approval of any petitions filed by, or on behalf of, Respondent pursuant to INA § 204 or § 214(c) for a period of one year.

14. The disqualification of Respondent SRIVEN INFOSYS, INC. shall not affect any of Respondent’s current H-IB employees with approved petitions.

15. Respondent SRIVEN INFOSYS, INC. agrees to fully comply with the requirements set forth in 20 C.F.R. Part 655, Subparts H and I, in the future.

16. In recognition of the obligations set forth in 20 C.F.R. § 655201, Respondent SRIVEN INFOSYS, INC. agrees to take no action to retaliate against any individual named on Schedule A.

17. Respondent SRIVEN INFOSYS, INC. agrees that it will not attempt to recoup any portion of the Back Wages Payment or civil money penalty from H-1B non-immigrants.

18. The parties agree that the Order disposing of this proceeding in accordance with the Consent Findings shall have the same force and effect as an order made after a full hearing pursuant to 20 C.F.R. § 655.840 in accordance with 29 C.F.R. § 18.9(b)(1).

19. The entire record on which this Order may be based shall consist solely of the Determination Letter and these Consent Findings and Order (29 C.F.R. § 18.9(b)(2)).

20. The parties hereby waive any further procedural steps before an Administrative Law Judge of the U.S. Department of Labor regarding this matter (29 C.F.R. § 18.9(b)(3)).

21. Respondent SRIVEN INFOSYS, INC. hereby waives any right to challenge or contest the validity of these Consent Findings and Order entered into in accordance with this agreement (29 C.F.R. § 18.9(b)(4)).

22. Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

I adopt the parties' stipulations as set forth above as my findings of fact. Accordingly, this matter is hereby **CLOSED**.

SO ORDERED.

THERESA C. TIMLIN
Administrative Law Judge

Cherry Hill, New Jersey

SCHEDULE A

	FIRST NAME	LAST NAME	BACK WAGES DUE
1	USHA	ACHLADI	\$2,476.89
2	SAINATH	AKULA	\$4,189.16
3	PRADEEP	ALLURI	\$2,001.96
4	VENU GOPAL	ANKINAPALLI	\$1,856.03
5	RAJITHA	BADDAM	\$191.01
6	AVNIT SINGH	BAMBAH	\$1,658.27
7	BALAJI	CHAKILAM	\$1,564.62
8	SEETARAM	CHAPALAMADUGU	\$3,754.68
9	MAMATHA	KARAMCHED	\$1,458.00
10	PRAJAKTA	KATHALE	\$5,740.88
11	RATNA KUMAR	KODURI	\$467.01
12	SUSEELA	MUNAGALA	\$3,865.94
13	CHAMUNDESWARI	NAGAVELU	\$649.03
14	ROMIL	PRASAD	\$2,954.34
15	SRINIVASALU	SIMINI	\$701.11
16	BHAVANA	TIRUKOVALLURI	\$5,646.42
17	SUMIT	VADODARIA	\$110.85
18	PRIYA	YADAV	\$79.20
		TOTAL	\$39,365.40

SCHEDULE B

PAYMENT DUE DATE	AMOUNT	INTEREST	TOTAL DUE
November 15, 2012	\$5,912.49	\$00.00	\$5,912.49
February 15, 2013	\$21,021.88	\$114.06	\$21,135.94
May 15, 2013	\$21,021.88	\$114.05	\$21,135.93
August 15, 2013	\$21,021.88	\$114.05	\$21,135.93
November 15, 2013	\$21,021.87	\$114.05	\$21,135.92
TOTALS	\$90,000.00	\$456.21	\$90,456.21