



Issue Date: 04 February 2015

Case No.: 2014 LCA 6

In The Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION
Prosecuting Party

v.

NYVASOFT, INC.,
VENKATA R. JONNALAGADDA,
Respondents

DECISION AND ORDER APPROVING CONSENT FINDINGS

This proceeding arises under the H1-B provisions of the Immigration and Nationality Act (“INA”), and the applicable regulations issued thereunder at 29 C.F.R. Sections 507 *et seq.*, and 20 C.F.R. Part 655, Subparts H and I. The Administrator, U.S. Department of Labor, Wage and Hour Division (“Administrator”) and NYVASOFT, Inc., and Venkata R. Jonnalagadda (“Respondents”) have filed Consent Findings, which set out the terms of the parties’ negotiated agreement to resolve the issues raised by the Respondents’ request for a hearing on the Administrator’s finding in a February 11, 2014 Determination Letter that Respondents failed to comply with the provisions of the INA and its regulations governing H-1B workers.

The parties have submitted the terms of their agreement as part of the proposed Consent Findings, in which they have negotiated settlement of all disputed claims. A review of the terms of the agreement and the Consent Findings shows that they comply with Title 29 C.F.R. § 18.9, and fairly and adequately resolve all issues in this matter. The terms of the agreement and the Consent Findings are incorporated by reference, and hereby APPROVED and ADOPTED in their entirety.

Accordingly, IT IS HEREBY ORDERED that:

1. The terms of the settlement agreement and the Consent Findings are approved.
2. Back wages of \$25,000.00 must be paid by cashier’s check or certified check to the Administrator for distribution to Respondents’ employee, as identified in Schedule A, or the estate if necessary, with the first installment payment of \$8,334.00 due thirty calendar days from the date of this Order, the second installment payment due sixty

calendar days from the date of this Order, and the final installment payment of \$8,333.00 due ninety calendar days from the date of this Order. The total payment of \$25,000.00 will constitute full satisfaction of all back wage claims arising against the Respondents as a result of their failure to compensate the H-1B worker in accordance with the applicable laws and regulations. The Respondents will be responsible for the employer's share of FICA, Medicare, and other required federal and state tax obligations, and any other statutory or regulatory payment obligations not otherwise named.

3. These Consent Findings do not affect the rights of the Respondents or the H-1B worker receiving payment of back wages outside the scope of the INA and the regulations promulgated under the INA at 20 C.F.R. Part 655.
4. Civil money penalties in the amount of \$2,250.00 must be paid to the Administrator by cashier's check or certified check no later than thirty calendar days after the date of this Order.
5. Should the Respondents fail to make the agreed payment within ten days of the scheduled date, the entire original amount (\$60,385.52 in back wages, and \$2,500.00 in civil money penalties) will immediately become due and payable, together with such additional collection and court costs as may be incurred by the Administrator in pursuing collection. In the event of default, the Administrator may pursue collection actions including, but not limited to, administrative offset, referral of the account to credit reporting agencies, private collection agencies, and/or the Department of Justice.
6. The Respondents are jointly and severally liable for the total amount of \$27,250.00; in the event of default, the Respondents are jointly and severally liable for the entire original amount of \$62,885.52.
7. Each party agrees to bear its own costs, attorneys' fees and other expenses incurred in connection with any stage in this proceeding, including all costs referenced under the Equal Access to Justice Act.
8. This Decision and Order has the same effect as one made after a full hearing on the merits.
9. All violations set forth in the Determination Letter shall be deemed fully resolved by these Consent Findings and Order.
10. These Consent Findings shall become final immediately upon approval by the Court.
11. Neither Respondents nor anyone acting on the Respondents' behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid as back wages pursuant to these Consent Findings and Order.
12. The record for this Decision and Order consists solely of the Administrator's Notice of Determination and the attached Settlement Agreement and Consent Findings.
13. The parties have waived any right to challenge or contest the validity of the Settlement Agreement and Consent Findings or of this Decision and Order.

SO ORDERED.

LINDA S. CHAPMAN
Administrative Law Judge