

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 07 January 2015

CASE NO.: 2015-LCA-00004

In the Matter of:

**ADMINISTRATOR, WAGE AND HOUR DIVISION,
UNITED STATES DEPARTMENT OF LABOR,**
Prosecuting Party,

v.

KBC ELECTRONICS, INC.,
Respondent.

Before: Collen A. Geraghty, Administrative Law Judge

Appearances:

Avni J. Amin, Esquire, (U.S. Department of Labor, Office of the Solicitor)
Boston, Massachusetts for the Prosecuting Party

Ryan A. O'Neill, Esquire, (The Law Offices of Mark Sherman) Stamford, Connecticut for the
Respondent

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

This case arises from a request for hearing filed by the Respondent in the above captioned matter, which involves the enforcement of an H-1B Labor Condition Application by the Administrator, Wage & Hour Division, United States Department of Labor ("Administrator" or "Prosecuting Party") under section 212(n) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1101(a)(15)(H)(i)(b) and § 1182(n), and the regulations promulgated there under at 20 C.F.R. Part 655, Subparts H and I, 20 C.F.R. § 655.700 *et seq.* On October 23, 2014, the Administrator, issued a determination that the Respondent violated the Act by failing to pay the required wage rate under the Act. *See* 20 C.F.R. §§ 655.731, 655.805(a)(2). The Administrator determined that the Respondent owed back wages totaling \$174,144.21 to one H-1B non-immigrant worker, and ordered payment of the back wage. On November 6, 2014, the Respondent, pursuant to 20 C.F.R. § 655.820, timely filed a request for review of the

Administrator's determination. A formal hearing was originally scheduled for December 15, 2014, in Boston, Massachusetts and was continued until January 29, 2015 at the parties request so they could focus their attentions on resolving this dispute. On December 31, 2014, the parties filed a document entitled: "Settlement Agreement and Consent Findings" (hereinafter "Agreement"). Upon review of the Agreement, I find that the terms are fair and reasonable and in substantial compliance with 29 C.F.R. § 18.9(b) and it is APPROVED. The hearing scheduled for January 29, 2015 is canceled.

Pursuant to the Agreement the following order shall enter:

- (1) The Agreement, including the "Exhibit A" thereto which contains the back wage amount due the H-1B non-immigrant worker and the payment schedule is APPROVED and its terms are adopted and incorporated herein by reference;
- (2) The parties shall comply with each and every term contained in the Agreement;
- (3) Respondent agrees that it is liable for a total payment of \$163,883.00 in back wages owed to one H-1B employee, plus interest of \$469.95 and said wages shall be paid by Respondent to the Administrator in accordance with the Agreement;
- (4) Respondent agrees to comply in all respects with the Act and applicable regulations in the future. Respondent specifically agrees that it will comply with its wage obligations as agreed and attested to in all of its Labor Condition Applications;
- (5) Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the terms of the Agreement is retained by the U.S. Department of Labor, Office of Administrative Law Judges ("OALJ");
- (6) The entire record upon which this Order was issued consists of the Administrator's determination, Respondent's request for hearing, and the Agreement;
- (7) The parties waive any further procedural steps before an administrative law judge and any right to challenge or contest the validity of the Agreement, this Order, and any other order issued in accordance with the Agreement;
- (8) This Order and the parties' Agreement shall fully and finally resolve all outstanding issues between the parties that were raised or reasonably could have been raised in connection with the Administrator's determination letter of October 23, 2014;

- (9) The Agreement and this Order shall have the same force and effect as an order made after a full hearing;
- (10) Each party shall bear its own costs, attorney's fees and expenses incurred by such party in connection with any stage of this proceeding, including, but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended;
- (11) Nothing in the Agreement or this Order is binding on any other governmental agency other than the United States Department of Labor; and
- (12) The Agreement and this Order shall comprise my findings of fact and conclusions of law and shall constitute the full, final, and complete adjudication of this proceeding.

SO ORDERED.

COLLEEN A. GERAGHTY
Administrative Law Judge

Boston, Massachusetts