



Issue Date: 20 August 2015

Case No.: 2015-LCA-00008

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION,
Prosecuting Party

v.

PKMG USA, Inc.
Respondent

**FINAL ORDER APPROVING PARTIES’
CONSENT FINDINGS**

Pursuant to 29 C.F.R. § 18.9 (1992) the Prosecuting Party, Administrator, Wage and Hour Division (“Administrator”) and Respondent PKMG USA, Inc., submit the following Consent Findings and Order. These Consent Findings and Order constitute a full and final resolution of this action and of all issues raised by the Administrator’s Determination Letter issued to Respondent on December 31, 2014.

Jurisdiction and Procedural History

1. This action arises under the Immigration and Naturalization 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. 102-232, 105 Stat. 1733 and the American Competitiveness and Workforce Improvement Act of 1998 (“ACWIA”), P.L. 105-277, 112 Stat. 2861-641. Jurisdiction over the hearing in this matter is vested in the Office of Administrative Law Judges by INA Section 212(n)(2), 20 C.F.R. §§ 655.820-840.

2. On December 31, 2014, the Administrator issued to Respondent, PKMG USA, Inc., a Determination Letter identifying alleged violations of the H-2B provisions of the INA and 20 C.F.R. Part 655, Subparts H and I.

3. On January 15, 2015, within the time period provided by 20 C.F.R. § 655.71, Respondent filed a Request for Hearing with respect to the allegations of violations set forth in the Determination Letter.

General Provisions

4. Respondent agrees to pay \$20,375 in back wages, plus \$303.51 in post-judgment interest to Deepak Roy (\$10,434.08) and Shekhar Basnet (\$10,244.43). This agreement to pay shall not constitute an admission by Respondent of any wrongdoing or of any back wages due. Respondent shall make payment of the back wages and interest in accordance with the following installment payment schedule:

<u>Payment due on or before</u>	<u>Back Wages and Interest Due</u>
August 1, 2015	\$1,698.00
November 1, 2015	\$1,578.08
February 1, 2016	\$1,574.19
May 1, 2016	\$1,570.30
August 1, 2016	\$1,566.41
November 1, 2016	\$1,562.52
February 1, 2017	\$1,708.82
May 1, 2017	\$1,579.77
August 1, 2017	\$1,575.88
November 1, 2017	\$1,571.98
February 1, 2018	\$1,568.09
May 1, 2018	\$1,564.20
August 1, 2018	\$1,560.27
TOTAL DUE	\$20,678.51

5. Each installment payment shall be made by delivering a lump-sum check made payable to “Wage and flour Division-Labor” in the amounts set forth in ¶ 4 to the following address:

U.S. Department of Labor
Wage and flour Division, Regional Office
The Curtis Center, Suite 850 West
1.70 South Independence Mail West
Philadelphia PA 19106-3317
Attn: Mary Doughty

“Reference No. 1728184” shall be written on the face of each check.

6. The Administrator shall deliver the proceeds of each check less any legal deductions to Mr. Roy and Mr. Basnet. In the event that any installment payment is not made within ten days of the due date(s) as set forth in ¶ 4, the Administrator shall notify the Respondent. If the Administrator does not then receive payment within ten 10 days of notifying Respondent of the delinquency, the amended original total back wage amount of \$50,893.15 shall become due immediately, less any amounts already paid.

7. The parties agree that an Order disposing of this proceeding in accordance with these 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).¹

8. 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)).

9. 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)).

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

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

SO ORDERED.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey

¹ In the executed Consent Findings and Order submitted by the parties, citations are made to 29 C.F.R. Part 18, Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (“Rules of Practice and Procedure”). Effective June 18, 2015, the Department of Labor revised the Rules of Practice and Procedure. *See* 29 C.F.R. Part 18, Subpart A (2015), as amended at 80 Fed. Reg. 28,767 (May 19, 2015). The provisions of the Rules of Practice and Procedure which pertain to the approval of consent findings are now found at 29 C.F.R. § 18.71(b)(1)-(4).