

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 13 December 2016**

Case No.: 2016-LCA-00037

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION /  
UNITED STATES DEPARTMENT OF LABOR,

Prosecuting Party,

v.

GEORGIA MUSIC WAREHOUSE, LLC,

Respondent.

**DECISION AND ORDER APPROVING CONSENT FINDINGS**

This case arises under the H-1B visa program of the Immigration and Nationality Act of 1952 (INA), 8 U.S.C. § 1101, et seq, as amended, and its implementing regulations found at 20 C.F.R. Part 655, Subparts H and I. The Parties successfully resolved the pending issues.

On November 28, 2016, the Parties jointly filed “Consent Findings” stating that they “have negotiated and executed these Consent Findings ...[for]full and final resolution of this action and of all issues raised by the Administrator’s Determination Letter issued to Respondent on September 19,2016” pursuant to 29 CFR §18.9 ( b). The Parties agreed to the following in their Consent Findings:

**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. The issues resolved by these Consent Findings and Order were identified initially during an investigation conducted by the Wage and Hour Division ("WHD").

3. On September 19, 2016, the Administrator issued a Determination Letter to Respondent identifying Respondent's violation of the H-1B provision of the INA. Specifically Respondent failed to pay Ms. Klaudia Wolf the prevailing wage as stated in the labor certification application ("LCA") submitted to the Employment and Training Administration (ETA) of the United States Department of Labor in violation of 20 C.F.R. § 655.731 (c).

4. Within the time period provided by 20 C.F.R. § 655.820, Respondent filed a Request for Hearing with respect to the allegations of violations set forth in the Determination Letter and disputed the Administrator's findings as to the claimed back wages owed.

5. On or around October 18, 2016, the Parties in this matter conferred with Administrative Law Judge Rosen by telephone and requested an additional two weeks to negotiate a settlement agreement. The Parties Agreed to file a status update with the court on or before November 1, 2016.

6. On October 27, 2016, the Parties reached an agreement in principle.

7. On October 28, 2016, the Parties filed a Joint Statement notifying the court that they had reached an agreement in principle.

#### **GENERAL PROVISIONS**

8. These Consent Findings and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing.

9. The entire record forming the basis on which the Consent Findings and Order is entered shall consist of the Determination Letter and the provisions and amendments contained herein.

10. The Parties hereby waive all further procedural steps between themselves before the Administrative Law Judge.

11. The Parties waive any right to challenge or contest the validity of these Consent Findings and Order.

12. All violations alleged in the Determination Letter issued by the Administrator are and shall be deemed fully resolved by these Consent Findings and Order with regard to all Parties.

13. These Consent Findings and Order shall become final immediately upon approval of the Administrative Law Judge. The effective date of these Consent Findings and Order shall be the date of approval by the Administrative Law Judge.

### **SPECIFIC PROVISIONS**

14. Respondent shall pay back wages totaling \$18,585.22 in three equal monthly payments to Ms. Wolf. Respondent shall withhold any legally required deductions for the employee's share of social security, federal income tax, state income tax, and/or other applicable legally required deductions as to the \$18,585.22 back wage amount.

15. Respondent will send monthly payments, less any legally required deductions for the employee's share of social security, federal income tax, state income tax, and/or other applicable legally required deductions as to the \$18,585.22 back wage amount, made payable to "Klaudia Wolf - Wage and Hour Division."

16. Respondent's attorney, Mr. Charles Bowen, will submit monthly payments by check to Assistant District Director Larry Benjamin at WHD via certified mail to the following address:

U.S. Department of Labor Wage and Hour Division  
124 Barnard St., Room B-210 Savannah, GA 31401

17. The first payment is due 15 days after the date of entry of this Order, and then every 30 days thereafter.

18. If Respondent fails to make a payment the full balance becomes due immediately to Ms. Wolf.

19. Respondent withdraws its Request for Hearing filed in this matter.

### **REPORTING AND ENFORCEMENT**

20. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of these Consent Findings and Order, is retained by the Office of Administrative Law Judges.

21. Enforcement proceedings for violation of these Consent Findings and Order may be initiated at any time upon the filing with the Administrative Law Judge a motion for an Order of enforcement and sanctions.

22. Each party will bear its own fees and other 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.

These Consent Findings and Order shall constitute the final Administrative Order in this case.

### **ORDER**

It is hereby **ORDERED** that:

1. The **Consent Findings are ADOPTED AND APPROVED** as the final Administrative Order pursuant to the provisions of 29 C.F.R. §18.9;
2. IT IS FURTHER ORDERED that this matter is hereby **DISMISSED** with prejudice.

**SO ORDERED.**

DANA ROSEN  
Administrative Law Judge

DR/mjw  
Newport News, VA