



Issue Date: 28 October 2016

CASE NO.: 2016-LCA-00028

In the Matter of:

**ADMINISTRATOR, WAGE AND HOUR
DIVISION,**

Prosecuting Party,

vs.

UNIVALUE CREATIONS, LLC,

Respondent.

DECISION AND ORDER ON CONSENT FINDINGS

This is an appeal from the Administrator's determination that Respondent has violated various of the H-1B provisions of the Immigration and Nationality Act, 8 U.S.C. §§ 1101 *et seq.* (the "Act"), and the. The matter is currently set for hearing in Honolulu, Hawaii, on December 13, 2016.

The parties submit their Consent Findings dated October 21, 2016, executed by Attorney Sonya P. Shao for the Administrator and Attorney John S. Mackey for the Respondent. They jointly request entry of an order based on the Consent Findings without a hearing. Accordingly, the court vacates the December 13, 2016, hearing date, approves the Consent Findings, and incorporates the Consent Findings by this reference into this Decision and Order.

Under the Consent Findings, the parties agree that the Director's charge of failure to pay wages as required under 20 C.F.R. §655.731 is amended to delete the characterization of the failure to pay as willful. Additionally, the charge of substantial violation of labor condition application specificity (20 C.F.R. §655.730 and 655.805(a)(6)) is added as an issue in this case.

Under the Consent Findings, Respondent has delivered to counsel for the Administrator a cashier's or certified check for \$28,097.00, less applicable social security and withholding taxes, made payable to "Kensho Matsumoto or Wage and Hour Division, Labor." The Administrator will deliver the funds underlying that check to Kensho Matsumoto upon this court's approval of the Consent Findings. Additionally, Respond-

ent has delivered a cashier's check in the amount of \$4,000.00, payable to the Wage and Hour Division, to counsel for the Administrator, representing civil money penalties as more specifically itemized in the Consent Findings. The terms and conditions of these payments are likewise more fully set forth in the Consent Findings.

The parties agree that performance of their respective obligations under the Consent Findings fully settles all of the matters alleged in the Administrator's July 5, 2016, Determination Letter, as amended in the Consent Findings. The parties further agree that each party must bear its own attorney fees, costs, and other expenses incurred in any stage of this proceeding. Respondent acknowledges that, upon the Administrator's notification to the Department of Homeland Security and the Employment and Training Administration of this Decision and Order, Respondent will be disqualified from approval of any labor condition application or applications for one year.

Both parties acknowledge in the Consent Findings that each waives the right to challenge or contest the validity of any Order entered in accordance with the Consent Findings.

Accordingly:

1. The Consent Findings submitted by the parties are adopted and approved, incorporated into this Order by reference, and are the Decision and Order of this court.
2. The parties must comply with each and every term of the Consent Findings.
3. The December 13, 2016, hearing date is vacated.
4. Further proceedings in this matter are discontinued.

SO ORDERED.

CHRISTOPHER LARSEN
Administrative Law Judge