



Issue Date: 01 July 2019

Case No.: 2018-LCA-00032

*In the Matter of:*

**ADMINISTRATOR, WAGE  
AND HOUR DIVISION,**  
*Prosecuting Party,*

v.

**VALSATECH CORP.,**  
*Respondent.*

**DECISION AND ORDER OF DISMISSAL AND  
ORDER CANCELLING THE HEARING**

This proceeding arises under the H-1B nonimmigrant worker program of the Immigration and Nationality Act (“ACT”), 8 U.S.C. §§ 1101(a)(15)(H)(i)(b), 1182(n), and the implementing regulations at 20 C.F.R. Part 655, subparts H and I.

**BACKGROUND**

On January 30, 2018, the Wage and Hour Division’s (“WHD”) Baltimore, Maryland district office issued the *Administrator’s Determination Pursuant to Regulations at 20 C.F.R. Part 655 H-1B Specialty Occupations under the Immigration and Nationality Act (INA) Administered by U.S. Department of Labor (DOL)* (“*Administrator’s Determination*”) in the above-captioned case, finding that Respondent failed to pay wages as required by the Act, and assessed \$9,400 in penalties and \$48,398.37 in back wages due to two H-1B nonimmigrant workers. *Administrator’s Determination* at 1–2. On August 14, 2018, Chandra Sabbavarpu, Respondent’s Chief Executive Officer, filed Re: Request for Hearing on *Administrator’s Determination Pursuant to Regulations at 20 C.F.R. Part 655 H-1B Specialty Occupations under the Immigration and Nationality Act (INA) Administered by U.S. Department of Labor (DOL)* Reference #: 1836183 (“*Respondent’s Request for a Hearing*”), claiming that the *Administrator’s Determination* was in error because:

[N]ot only did [Respondent] not fail to pay wages as required but, also, any such failure to pay was not willful. Further, the Administrator abused his discretion in setting the amount of said penalties by failing to properly consider the type of violation committed and other relevant factors. The regulation providing that upon said receipt of notification, ETA will be required to invalidate any pending LCA(s) and not accept for filing any applications or attestations submitted under

the Department's permanent or temporary labor certification is inconsistent with the unambiguous meaning of the Immigration and Nationality Act as so *ultra vires*. Finally, upon information and belief, the Administrator failed to comply with one or more relevant Department of Labor regulations, policies and/or procedure, and/or the terms of the Immigration and Nationality Act in investigating [Respondent] and making this determination. Also, the matter was fully settled by a verbal agreement between the DOL and [Respondent] whereby [Respondent's] payments of all alleged backwages liability would be accepted as a full settlement in this matter and no further penalties of any sort would be imposed.

*Respondent's Request for a Hearing* at 1–2, 4.

On May 31, 2019, Respondent's counsel filed a *Withdrawal of Request for Hearing*. On June 26, 2019, a member of my staff contacted counsel for the Administrator, who confirmed that the Administrator has no objection to Respondent's withdrawal of its request for a hearing.

#### **DISCUSSION**

I am aware of no authority that does not allow a "party" or an "interested party" from withdrawing its request for a hearing. Upon granting Respondent's *Withdrawal of Request for Hearing*, the *Administrator's Determination* becomes final.

#### **ORDER**

Accordingly, based on the foregoing, the hearing scheduled to commence on July 16, 2019 in Washington, D.C. is **CANCELLED**; Respondent's *Withdrawal of Request for Hearing* is **GRANTED**; the *Administrator's Determination* issued on January 30, 2018 is **AFFIRMED**; and the above captioned-matter is **DISMISSED**.

**SO ORDERED.**

**LARRY S. MERCK**  
Administrative Law Judge