



**Issue Date: 18 March 2020**

**CASE NO.: 2020-TAE-00001**

**IN THE MATTER OF**

**ADMINISTRATOR, WAGE AND HOUR DIVISION,  
U.S. DEPARTMENT OF LABOR  
Complainant**

**v.**

**WESLEY NELSON  
Respondent**

**ORDER APPROVING CONSENT FINDINGS**

This matter arises under the H-2A provisions of the Immigration and Nationality Act (“Act”), 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(a), (c), and 1188, and the implementing regulations found at 20 C.F.R. Part 655 and 29 C.F.R. Part 501.

By letter dated April 22, 2019, the District Director for the Wage and Hour Division’s Wichita, Kansas, Office notified Wesley Nelson (“Employer”) that an investigation regarding the employment of H-2A workers revealed Employer failed to comply with certain legal requirements of the Act covering the period December 18, 2016, through December 15, 2018 and assessed \$12,948.63 in unpaid wages and \$12,368.60 in civil money penalties. The District Director further notified Employer of its determination that it shall be debarred from applying to the Department of Labor for H-2A certification for a period of three years. By letter dated May 14, 2019, Employer requested a formal hearing.

On October 3, 2019, the Office of Administrative Law Judges received the Order of Reference on this matter from counsel for the Administrator, and the case was docketed for hearing. The hearing was originally scheduled for December 2, 2019, and rescheduled for February 4, 2020, after receiving the Respondent’s Unopposed Motion. The February 4, 2020 hearing in Kansas City, Kansas, was subsequently cancelled on the representation of the parties that all issues in dispute were resolved by agreement.

On March 17, 2020, the Administrator filed Consent Findings, in which the Employer agrees to withdraw its request for hearing and pay back wages in the amount of \$9,576.29 and civil money penalties in the amount of \$5,423.71, payable by certified or cashier’s checks on or before March 31, 2020. Employer shall deliver the payments to the U.S. Department of Labor, Wage and Hour Division, P.O. Box 2638, Chicago, IL 60690-2638. Employer states “that it is now in compliance with all applicable provisions of the Act and will continue to comply

therewith in the future.” The Consent Findings reference no agreement to debarment for any period of time. The agreement set forth in the Consent Findings resolves all issues for litigation (“This Agreement is a compromise and settlement of disputed claims and obligations”). *See* Consent Findings, Paragraph 8.

Section § 501.40(d) provides that the presiding Administrative Law Judge shall accept any agreement containing consent findings if he or she is “satisfied with its form and substance.” After reviewing its terms, I am satisfied that the agreement conforms to the requirements set forth in § 501.40(b)(1)-(4) and is a satisfactory resolution of the issues previously contested. The terms of the Consent Findings filed on March 17, 2020 are APPROVED and are adopted and incorporated in full into this Order.

It is hereby **ORDERED** that:

- (1) This Order shall have the same force and effect as an order made after full hearing;
- (2) The entire record on which this Order is based consists solely of the notice of administrative determination, the request for hearing, the order of reference, filings with the Court in this matter, and the settlement agreement;
- (3) The parties have waived any further procedural steps before the Administrative Law Judge regarding this matter; and
- (4) The parties have waived any right to challenge or contest the validity of the Consent Findings and this Order entered into in accordance with the parties’ agreement.

Upon payment of the amounts set forth in the Consent Findings, for back wages and civil money penalties, this matter is DISMISSED.

So **ORDERED** this 18<sup>th</sup> day of March, 2020, at Covington, Louisiana.

**ANGELA F. DONALDSON**  
**ADMINISTRATIVE LAW JUDGE**