

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 15 June 2012

CASE NO.: 2012-TNE-00009

In the Matter of:

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

v.

HANSON ENTERPRISES, LLC.

Respondent.

Before: Timothy J. McGrath, Administrative Law Judge

Appearances:

James L. Polianites, Jr., Esquire, (U.S. Department of Labor, Office of the Solicitor)
Boston, Massachusetts, for Prosecuting Party

Karen J. Hanson, Manager, (Hanson Enterprises, LLC)
Ogunquit, Maine, for Respondent

**DECISION AND ORDER APPROVING SETTLEMENT
AGREEMENT AND CONSENT FINDINGS**

This case arises from a request for hearing filed by the Respondent in the above captioned matter, involving enforcement of the H-2B provisions of the Immigration and Nationality Act, 8 U.S.C. §1101(a)(15)(H)(ii)(b), as amended (“the Act”), and the implementing regulations set forth at 20 C.F.R. Part 655, Subpart A, for alleged violations of section 1184(c) of the Act. A formal hearing was scheduled for May 21, 2012, in Portland, Maine. On May 17,

2012, the parties advised the Court the matter had been resolved after they entered into negotiations to settle the matter without need for further litigation.

On June 8, 2012, the parties filed their duly executed “Settlement Agreement and Consent Findings” (hereinafter “Agreement”). Upon review of the Agreement, I find that the terms are fair and reasonable and in substantial compliance with 29 C.F.R. § 18.9(b) and it is approved.

Pursuant to the Agreement the following order shall enter:

- (1) The Agreement is APPROVED and its terms are adopted and incorporated herein by reference; those terms are as follows:
- (2) On March 8, 2012, the Administrator of the Wage and Hour Division, United States Department of Labor, issued a determination letter identifying Respondent’s alleged violations of the H2-B provisions of the act;
- (3) On March 23, 2012, Respondent made a timely request for a hearing challenging the Administrator’s determination;
- (4) Respondent has transmitted the total amount of civil money penalties to the Wage and Hour Division in amount \$24,300.00 (TWENTY FOUR THOUSAND THREE HUNDRED DOLLARS);
- (5) Respondent agrees to comply in all respects with the Act and applicable regulations in the future, including its recruitment and document retention obligations;
- (6) Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of the Agreement, is retained by the U.S. Department of Labor, Office of Administrative Law Judges (“OALJ”);
- (7) The entire record upon which the Order issued by the Court is based shall consist of the Administrator’s determination, Respondent’s request for a hearing, and the Agreement;
- (8) The parties waive any further procedural steps before the administrative law judge and waive any right to challenge or contest the validity of the Agreement and any Order issued in accordance with this agreement;

- (9) The Agreement shall fully and finally resolve all outstanding issues between the parties that were raised, or reasonably could have been raised, in connection with the Administrator's determination letter of March 8, 2012;
- (10) The Agreement and the Order issued in this matter shall have the same force and effect as an order made after a full hearing;
- (11) Each party shall bear its own costs, attorneys' 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;
- (12) Nothing in the Agreement is binding on any governmental agency other than the United States Department of Labor; and
- (13) The Order issued in accordance with this agreement shall constitute the Final Administrative Order in this case.

SO ORDERED.

A

TIMOTHY J. McGRATH
Administrative Law Judge

Boston, Massachusetts

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") that is received by the Administrative Review Board ("Board") within thirty calendar days of the date of issuance of the administrative law judge's decision. *See* 20 C.F.R. § 655.76(a). The Board's address is:

Administrative Review Board
U.S. Department of Labor
Room S-5220
200 Constitution Ave, NW
Washington, D.C. 20210

At the time you file the Petition with the Board, you must serve it on all parties to the case as well as the administrative law judge. 20 C.F.R. § 655.76(a).

No particular form is prescribed for the Petition, however, any such petition shall:

- (1) Be dated;
- (2) Be typewritten or legibly written;
- (3) Specify the issue or issues stated in the administrative law judge decision and order giving rise to such petition;

- (4) State the specific reason or reasons why the party petitioning for review believes such decision and order are in error;
- (5) Be signed by the party filing the petition or by an authorized representative of such party;
- (6) Include the address at which such party or authorized representative desires to receive further communications relating thereto; and
- (7) Attach copies of the administrative law judge's decision and order, and any other record documents which would assist the Board in determining whether review is warranted.

20 C.F.R. § 655.76(b). If the Board determines that it will review the ALJ's decision and order, it will issue a notice specifying (1) The issue or issues to be reviewed; (2) The form in which submissions shall be made by the parties (e.g., briefs); and (3) The time within which such submissions shall be made. When filing any document with the Board, the party must file an original and two copies of the document. 20 C.F.R. § 655.76(e).