



Issue Date: 03 November 2015

Case No.: 2015-TNE-00014

In the Matter of

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

Prosecuting Party

v.

J & S LAWNMAN, INC.

Employer

DECISION AND ORDER APPROVING CONSENT FINDINGS

This above-captioned matter arises from the request for hearing filed by J & S Lawnman, Inc. (“Respondent”) on the determination of the Administrator, Wage and Hour Division (“Administrator”) issued by letter dated August 31, 2015. That determination arises from the Secretary of Labor’s enforcement of H-2B provisions of the Immigration and Nationality Act (“INA”), 8 U.S.C. §1101(a)(15)(H)(ii)(b), as amended, and its implementing regulations set forth at 20 C.F.R. Part 655, Subpart A and 29 C.F.R. Part 503.

In the August 31, 2015 determination letter, the Administrator concluded Respondent violated the H-2B provisions of the INA, during the period from March 31, 2014 through December 5, 2014, and assessed a civil money penalty. Specifically, the Administrator determined Respondent substantially failed to comply with a condition of the USCIS Form I-129, Petition for a Nonimmigrant Worker.

The Notice of Hearing was issued on October 7, 2015. In a letter dated October 26, 2015 and received on October 28, 2015, the parties indicated that they have reached a settlement and enclosed their proposed Consent Findings.

I have reviewed the parties’ proposed Consent Findings, and find them to be fair and adequate. Accordingly, IT IS HEREBY ORDERED:

1. The Consent Findings submitted by the parties are incorporated by reference in this Order and are approved.

2. Respondent shall pay a civil penalty of **\$4,000.00** on or before **November 18, 2015** by delivering a certified check or money order payable to the “Wage and Hour Division-Labor” in the amount of \$4,000.00 to the following address:

U.S. Department of Labor
Wage and Hour Division, Regional Office
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317

“Case No. 1736552” shall be written on the face of the check.

3. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the terms of the agreement is retained by the U.S. Department of Labor, Office of Administrative Law Judges (“OALJ”).

4. The entire record upon which this Order is issued shall consist of the Administrator’s determination as amended per ¶5 of the proposed Consent Findings, and this Order Approving Consent Findings. 29 C.F.R. § 18.71(b).

5. The parties waive any further proceeding before the OALJ and waive any right to challenge or contest the validity of the Consent Findings entered into in accordance with their agreement. 29 C.F.R. § 18.71(b)(3) and (4).

6. Each party shall bear its own costs, attorney’s fees and other expenses incurred in connection with this proceeding.

7. This Order approving the parties’ proposed Consent Findings shall have the same force and effect as an order made after full hearing in accordance with 29 C.F.R. § 18.71(b)(1).

8. The prehearing conference and hearing scheduled in the October 7, 2015 Notice of Hearing are canceled.

SO ORDERED.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey

NOTICE OF APPEAL RIGHTS: Any party seeking review of this decision and order, including judicial review, shall file a Petition for Review (“Petition”) with the Administrative Review Board (“ARB”). The ARB must receive the Petition within 30 calendar days of the date of this decision and order. 20 C.F.R. § 76(a). The Board’s address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

Copies of the Petition should be served on all parties and on the undersigned Administrative Law Judge. 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 ARB in determining whether review is warranted.

If filing paper copies, you must file an original and four copies of the petition for review with the Board. If you e-File your petition, only one copy need be uploaded.

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