



Issue Date: 19 June 2018

Case Number: 2017-TNE-00019

In the Matter of:

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

v.

PELICAN BAY FOUNDATION.
Respondent.

ORDER APPROVING CONSENT FINDINGS

The above-captioned matter 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 the implementing regulations at 20 C.F.R. Part 655, Subpart A and 29 C.F.R. Part 503.

The Administrator, Wage and Hour Division ("Administrator") of the U.S. Department of Labor issued a determination letter to Pelican Bay Foundation ("Respondent") via letter dated August 25, 2017, stating that Respondent was found to be in violation of certain H-2B provisions of the INA.¹ On September 22, 2017, Respondent filed a letter with this Office contesting the findings and requesting a hearing. On October 16, 2017, Judge Daniel Solomon issued a *Notice of Assignment and Notice of Hearing*. An April 9, 2018 in Miami, Florida was cancelled upon notice that the parties were engaging in settlement discussions.²

On June 15, 2018, counsel for the Administrator filed *Consent Findings* and a proposed *Decision and Order* indicating that the parties had, in fact, reached a resolution on all issues thereby obviating the need for a formal hearing. The Administrator agrees to amend the Determination Letter to allege Respondent owes H-2B back wages in the amount of \$42,000.00. Respondent agrees to withdraw its request for hearing and exception to the administrative determination and pay the amended back wages in the amount of \$42,000.00, no later than 30

¹ The Administrator found that, during the period from July 4, 2009 through June 1, 2012, Respondent had violated H-2B provisions of the INA by substantially failing to comply with the recruitment and hiring of U.S. workers and improper job classification and determined that Respondent owed back wages in the amount of \$172,668.61.

² The case was reassigned to me in my capacity as Chief Administrative Law Judge upon Judge Solomon's impending retirement from federal service. 29 C.F.R. § 18.15

days from the date of this Order by mailing a certified check to U.S. Department of Labor, Wage and Hour Division, Tampa District Office, 4200 W. Cypress Street, Suite 444, ATTN: Linda Spearman, Tampa, FL 33607.

The administrative procedures relevant to the approval of consent findings are set forth at 29 C.F.R. § 503.49. After reviewing the terms of the agreement, I am satisfied that they conform to the requirements of 29 C.F.R. § 503.49(b) and are a satisfactory resolution of the issues previously contested. Accordingly, the *Consent Findings* are adopted and incorporated in full into this Order. Upon payment of the back wages, this matter is DISMISSED WITH PREJUDICE.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge