

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

Issue Date: 04 June 2018

CASE NOS.: 2018-TNE-00009; 2018-TNE-00010

In the Matter of:

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

v.

**AMIN HOTELS, INC. D/B/A OGUNQUIT RIVER INN,
MIDWAY MOTEL, INC. D/B/A AMERICAS BEST VALUE
INN AND COTTAGES,
*Respondents.***

DECISION AND ORDER APPROVING CONSENT FINDINGS

This proceeding arises from the request for hearing filed by the Respondents in the above matters, which arise from the Secretary of Labor's enforcement of H-2B provisions of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b), as amended, and the implementing regulations set forth at 20 C.F.R. Part 655, Subpart A.

The parties have reached a settlement in the above captioned matters and on June 4, 2018, the parties filed a Settlement Agreement and Consent Findings. I have reviewed the parties' Consent Findings, and find them to be fair and adequate. Accordingly, the consent findings are approved and IT IS HEREBY ORDERED:

1. Midway Motel, Inc. d/b/a American's Best Value Inn and Cottages ("ABVI") shall pay \$3,986.09 and Amin Hotels, Inc. d/b/a/ Ogunquit River Inn ("ORI") shall pay \$7,890.69, representing gross back wages owed to H-2B employees, from which deductions for the employees' share of FICA and federal withholding taxes will be made by ABVI or ORI, as appropriate, with no deduction for the employees' state withholding tax for which the employees shall be responsible;

2. The total civil money penalties relating to Case Nos. 2018-TNE-00009 and 2018-TNE-00010 and Wage and Hour Reference Numbers 180272 and 1819648, shall be reduced to \$22,565.50;
3. ORI and ABVI agree to comply in all respects with the Act and applicable regulations in the future. ORI and ABVI specifically agree that they will comply with wage obligations as agreed and attested to in all Applications for Temporary Employment Certification;
4. The Administrator agrees that a method of calculating housing costs charged to an employee for housing provided by ABVI and ORI is reasonable if based on 29 C.F.R. § 516.27 and the Wage and Hour Division, United States Department of Labor's Field Operations Manual §§ 30c04 through 30c07 and so long as it does not exceed the actual cost of providing said housing or fair rental value as evidenced by rents charged;
5. Nothing in the parties' agreement is intended to or shall be deemed to be an admission by any party or their counsel of liability or the existence of facts upon which liability could be based;
6. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of these Consent Findings and Order, is retained by the Office of Administrative Law Judges;
7. The entire record upon which the Order is entered shall consist of the Administrator's Determination Letters, the Request for Hearing, and the Consent Findings;
8. The parties waive any further procedural steps before the Administrative Law Judge and waive any right to challenge or contest the validity of these Consent Findings and Order;
9. These Consent Findings and Order 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 investigation;
10. Each party will bear its own costs, attorney's 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;
11. Nothing in these Consent Findings and Order is binding on any governmental agency other than the United States Department of Labor Wage and Hour Division;

12. These Consent Findings and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing; and

13. These Consent Findings and Order shall constitute the final Administrative Order in this case.

SO ORDERED.

COLLEEN A. GERAGHTY
Administrative Law Judge

Boston, Massachusetts