



**Issue Date: 08 April 2019**

**CASE NO.: 2018-TNE-25**

*In the Matter of*

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

*Prosecuting Party*

**v.**

**WYRICK & SONAS PINE STRAW**

*Respondent*

**DECISION AND ORDER APPROVING CONSENT FINDINGS**

This is a proceeding under the H-2B provisions of the Immigration and Nationality Act, ("INA"), 8 U.S.C. § 1101(a)(15)(H)(ii)(b) *et seq.*, and the applicable regulations issued thereunder at 20 C.F.R. Part 655, Subpart A.

Pursuant to 29 C.F.R. § 18.9 (1992) the Prosecuting Party, Administrator, Wage and Hour Division ("Administrator") and Wyrick & Sons Pine Straw ("Respondent"), submit these Consent Findings and Order. These Consent Findings and Order constitute a full and final resolution of this action and of all issues raised by the Administrator's Determination Letter issued to Respondent on March 21, 2018.

Accordingly, **IT IS ORDERED:**

**JURISDICTION AND PROCEDURAL HISTORY**

1. This action arises under the Immigration and Naturalization Act of 1952, P.L. 82- 414, 66 Stat. 163, codified as amended at 8 U.S.C. § 1101, *et seq.*, as amended by the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, P.L. 102-232, 105 Stat. 1733 and the American Competitiveness and Workforce Improvement Act of 1998 ("ACWIA"), P.L. 105-277, 112 Stat. 2861-641, (the "INA"). Jurisdiction over the hearing in this matter is vested in

the Office of Administrative Law Judges by INA Section 212(n)(2), 20 C.F.R. §§ 655.820-840.

2. The issues resolved by these Consent Findings and Order were identified initially during an investigation conducted by Wage-Hour from April 1, 2013 through September 8, 2014.
3. On March 21, 2018, the Administrator issued to Respondent a Determination Letter identifying alleged violations of the H-2B provisions of the INA.
4. Within the time period provided by 20 C.F.R. § 655.71, Respondent filed a Request for Hearing with respect to the allegations set forth in the Determination Letter.

### **GENERAL PROVISIONS**

5. These Consent Findings and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing.
6. The entire record forming the basis on which the Order is entered shall consist of the March 21, 2018, Determination Letter and attachments thereto, and these agreements and consents.
7. The parties to these Consent Findings and Order hereby waive all further procedural steps between themselves before the Administrative Law Judge.
8. The parties to the Consent Findings and order hereby waive any right to contest the validity of these findings or any Order entered in accordance herewith.
9. All violations alleged in the Determination Letter issued by the Administrator on March 21, 2018, and shall be deemed fully resolved by these Consent Findings and Order.
10. Respondent agrees to pay, within thirty days of this agreement, \$6,505.99 via certified check, which Respondent agrees is intended to pay employees for the periods of employment and in the amounts indicated with respect to each, as set forth on Schedule "A" attached hereto. For H-2B and tax purposes, the \$6,505.99 paid shall be treated as wages to employees. Defendants also shall provide Plaintiff with a schedule showing their employer I.D. number and the last-known address as to each employee listed on the Schedule "A". Plaintiff shall distribute the proceeds of such check, less deductions for federal income taxes and employee contributions to F.I.C.A. as required by law, to the named employees, or to their personal representatives, and any amounts not so distributed by the Plaintiff within the period of three (3) years after date of this Judgment, because of inability to locate the proper persons or because of such persons' refusals to accept such sums, shall be deposited into the Treasury of the United States as miscellaneous receipts. Respondent shall

remain responsible for the employer's share of F.I.C.A. arising from or related to the wages paid hereunder.

11. In addition, Respondent agrees to pay \$6,253.00 in civil money penalties via a separate certified check, within thirty days of the date of this agreement.
12. Payments shall be provided in person or mailed to "**WAGE HOUR DIVISION-LABOR**":

**UNITED STATES DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Tallahassee Area Office  
325 John Knox Road, Bldg D, Suite 102 Tallahassee, Florida 32303**

**Case # 1710200 will be written on the face of the certified checks.**

13. These Consent Findings and Order shall become final immediately upon approval of the Administrative Law Judge. The effective date of these Consent Findings and Order shall be the date of approval by the Administrative Law Judge.
14. Respondent states that it did not receive a final conference with the Prosecuting Party, which Respondent believes could have resolved this matter informally. Nevertheless, Respondent withdraws its aforesaid exception to administrative determination

#### **REPORTING AND ENFORCEMENT**

15. 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.
16. Enforcement proceedings for violation of these Consent Findings and Order may be initiated at any time upon filing with the Administrative Law Judge a motion for an order of enforcement and sanctions.
17. By entering into this agreement, the Wage Hour Division does not waive its right to conduct future investigations under the Act, except of events which occurred within the time period covered by the investigation in this agreement. The Wage and Hour Division may take any appropriate enforcement action, including assessment of civil money penalties, with respect to any violation disclosed.
18. Except for proceedings under the H-2B provisions of the INA, none of the foregoing agreements, statements, findings, stipulations, and actions is intended as an admission by Respondent of the allegations contained within the Administrator's March 21, 2018 Determination letter.

19. Each party will bear its own 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.

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

21. Finally, **IT IS HEREBY ORDERED** that the Consent Findings be made part of the record.

**IT IS SO ORDERED, ADJUDGED AND DECREED.**

**PATRICK M. ROSENOW  
ADMINISTRATIVE LAW JUDGE**