

# U.S. Department of Labor

Office of Administrative Law Judges  
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**Issue Date: 02 August 2019**

CASE NO.: 2018-TNE-00039

In the Matter of:

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

v.

MADJAX AMUSEMENTS, INC., d/b/a  
MIDWEST RIDES AND CONCESSIONS  
Respondent

## **DECISION AND ORDER APPROVING CONSENT FINDINGS**

The above matter arises under the H 2-B temporary non-agricultural visa provisions of the Immigration and Nationality Act (“the Act” or “INA”), as amended, 8 U.S.C. § 1101 *et seq.*, and the implementing regulations promulgated thereunder at 20 C.F.R. Part 655, Subpart A and 29 C.F.R. Part 503. A hearing in this case was previously scheduled for June 4, 2019, in Minneapolis, Minnesota. On Tuesday, May 21, 2019, the undersigned held a telephonic conference in which the parties advised that they were in the process of settlement negotiations and that a hearing was unnecessary; on May 22, 2019, the undersigned issued an Order Cancelling Hearing. On June 27, 2019, the undersigned received the parties’ executed Consent Findings and Settlement Agreement, constituting final resolution of the matter which are fully incorporated and adopted herein by reference.

As indicated in the Consent Findings, the matter stems from an investigation conducted by the Wage and Hour Division (“WHD”) of the U.S. Department of Labor (“DOL”), regarding Respondent’s compliance with H-2B provisions of the INA, 8 U.S.C. § 1101(a)(15)(H)(i)(b). Following the investigation, the WHD Administrator issued a Determination on August 16, 2018. On September 13, 2018, Respondent contested the Administrator’s findings and requested a hearing.

The regulations at 29 C.F.R. Part 503, Subpart C, prescribes the administrative appeals process applicable here and grants the Office of Administrative Law Judges (“OALJ”) the authority to conduct hearings on the Administrator’s determinations regarding enforcement of the H-2B program, including the assessment of civil money penalties or back pay. 29 C.F.R. §§503.43, 503.46. If the parties reach a settlement resolving the case after initiation of proceedings before OALJ, they may submit an agreement containing consent findings and an

order to OALJ for approval pursuant to § 503.49. Such an agreement must contain certain provisions required by § 503.49(b), including a waiver of any further procedural steps before OALJ and a waiver of any right to challenge or contest the validity of the agreed-on findings and order. Within thirty days of submission of such agreement, the administrative law judge, “will, if satisfied with its form and substance, accept such agreement by issuing a decision based upon the agreed findings.” *Id.* § 503.49.

In the present matter, Respondent timely requested a hearing, the matter was transmitted to OALJ, and the undersigned was assigned to conduct a hearing. As noted above, although scheduled, the hearing was not held due to the parties’ settlement. I have reviewed the provisions of the parties’ agreed upon Consent Findings. Based on that review, it appears the parties’ agreed upon terms of the Consent Findings provide for the full resolution of the violations set forth in the Administrator’s Determination and further address the regulatory requirements.<sup>1</sup>

Accordingly, after review and consideration, I find the agreed upon terms of the parties’ executed Consent Findings conform to the requirements of 29 C.F.R. § 503.49 and that all issues in contest between the parties have been resolved. It is therefore ORDERED that the executed Consent Findings, attached hereto, are approved, adopted, and incorporated in full into this Order. It is further ORDERED that the Consent Findings and this Order shall constitute the final Administrative Order and complete adjudication of this proceeding.

**SO ORDERED.**

SEAN M. RAMALEY  
Administrative Law Judges

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<sup>1</sup> Specifically, the Consent Findings and Order submitted by the parties provide: (1) that the order will have the same force and effect as an order made after full hearing; (2) that the entire record on which any order may be based will consist solely of the notice of administrative determination, and the Consent Findings; (3) a waiver of any further procedural steps before the ALJ; and (4) a waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement. 29 C.F.R. §503.49(b). These requirements are therefore fulfilled in the instant Consent Findings.

**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](mailto: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).