

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

Issue Date: 20 June 2019

CASE No.: 2019-TNE-00019

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*In the Matter of:*

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

v.

**ENVIRONMENTAL SOLUTIONS,**  
*Employer.*

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**ORDER APPROVING CONSENT FINDINGS**

This case arises under the temporary non-immigrant non-agricultural worker visa (“H-2B”) provisions of the Immigration and Nationality Act (“INA” or “the Act”), 8 U.S.C. §§ 1101(a)(15)(H)(ii)(B), 1184(c)(1), and its implementing regulations at 20 C.F.R. Part 655, subpart A, 29 C.F.R. Part 503, and 8 C.F.R. § 214.2(h)(6) (Department of Homeland Security regulations).

On January 25, 2019, following an investigation, the Wage and Hour Division, U.S. Department of Labor, cited Employer for several violations involving H-2B non-immigrant workers. *See Administrator’s Determination* (January 25, 2019). The Administrator assessed monetary penalties totaling \$62,304.95, and back wages of \$69,308.94.

On February 21, 2019, Employer filed its Notice of Appeal with the Chief Administrative Law Judge, Office of Administrative Law Judges, in Washington, D.C., and, pursuant to 29 C.F.R. § 503.43, requested a hearing on the penalties. On March 11, 2019, the matter was assigned to me.

On March 29, 2019, I held a conference call with the parties to discuss case scheduling. The parties advised that they were engaged in settlement discussions, and accordingly requested a deferred deadline for initial disclosures. They agreed on a trial date of August 20-22, 2019.

On April 26, 2019, I issued a Notice of Assignment and Preliminary Order outlining the pretrial schedule, and setting the trial date to start on August 20, 2019, in Portland, ME.

On May 16, 2019, Counsel for the Solicitor wrote to advise that the parties had reached an agreement in principle. On June 13, 2019, the parties filed a Joint Motion To Accept and Adopt Settlement Agreement and Consent Findings (“Joint Motion”), together with a Settlement Agreement and Consent Findings (“Consent Findings”). Employer having already paid \$76,114.58 in back wages, the parties agreed that in settlement, Employer would pay a penalty of \$38,006.02, without admitting or denying the allegations made against it in this matter.

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),<sup>1</sup> and are a satisfactory resolution of the issues previously contested.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Joint Motion, filed June 13, 2019, is **GRANTED**;
2. The Consent Findings, filed June 13, 2019, are **ADOPTED** and **INCORPORATED IN FULL** into this Order; and
3. Upon Employer’s payment of the penalty as provided in the Consent Findings, this matter is **DISMISSED WITH PREJUDICE**.

**SO ORDERED.**

**NORAN J. CAMP**  
Administrative Law Judge

Boston, Massachusetts

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<sup>1</sup> The following are required in the Consent Findings:

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 (or amended notice, if one is filed), and the agreement;
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).