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**Issue Date: 15 July 2019**

**CASE NO.: 2019-TNE-25**

**IN THE MATTER OF**

**ADMINISTRATOR, WAGE AND HOUR DIVISION**

**Prosecuting Party/Complainant**

**v.**

**FAIRWAY NURSERY OUTLET, LLC**

**Respondent**

**DECISION AND ORDER**

Pursuant to 29 C.F.R. § 18.71, the parties to this action, Prosecuting Party, Administrator of the Wage and Hour Division, United States Department of Labor and Respondent, Fairway Nursery Outlet LLC, have negotiated and executed Consent Findings (a copy of which is appended hereto and the recitations of which are deemed to constitute any findings and conclusions). These Consent Findings constitute a full and final resolution of this action and of all issues raised by the Administrator's Determination Letter to Respondent on April 2, 2019, with respect to the employment of H-2B workers at its places of employment located at 12802 Robert Glenn, San Antonio, Texas 78252; and additional worksites, and the H-2B provisions of the Immigration and Naturalization Act ("INA"), as amended, 8 U.S.C. § 1101(a)(15)(H)(ii)(b), *et seq.*

Accordingly, **IT IS HEREBY ORDERED:**

1. That the Consent Findings are hereby APPROVED;
2. That the parties be bound by the terms of said instrument and shall comply therewith; and
3. That \$7,500.00 be paid by Respondent to the Department of Labor which shall be deemed to be full and final satisfaction of all contested issues arising out of Respondent's employment of H-2B workers that began on or around March 1, 2013 and ended on or around December 31, 2013, and again on or around March 1, 2014 and ended on or around December 31, 2014.

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

In view of the foregoing, the hearing scheduled on August 5, 2019, is hereby cancelled.

**ORDERED** this 15<sup>th</sup> day of July, 2019, at Covington, Louisiana.

LEE J. ROMERO, JR.  
Administrative Law Judge

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 (\$ARBS\$). 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

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).