



Issue Date: 27 June 2019

Case No.: 2019-TNE-00015

In the Matter of:

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

v.

BAYWATCH RESORT, LLC.
Respondent.

**DECISION AND ORDER APPROVING CONSENT FINDINGS,
DISMISSING CASE AND CANCELLING HEARING**

The above-captioned matter arises from the Secretary of Labor's enforcement of H-2B provisions of the Immigration and Nationality Act ("INA"), the implementing regulations governing the H-2B temporary labor certification program,¹ and the Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges.² On June 26, 2019, pursuant to 29 C.F.R. § 503.49, the Prosecuting Party, Administrator, United States Department of Labor, Wage and Hour Division ("Administrator"), and Respondent, Baywatch Resorts ("Respondent"), filed "Consent Findings" constituting a full and final resolution of this matter and all issues raised by the Administrator's Determination Letter issued to Respondent on January 18, 2019.

The regulations specify that an agreement containing consent findings and an order disposing of a proceeding must provide:

1. That the order will have the same force and effect as an order made after a full hearing;

¹ 8 U.S.C. §§ 1101(a)(15)(H)(ii)(b), 1184(c)(1), 1184(c)(14), as amended; 29 C.F.R. parts 655 and 503.

² 29 C.F.R. Part 18, Subpart A.

2. That the entire record on which the order is based will consist solely of the notice of administrative determination and the agreement;
3. A waiver of any further procedural steps before the administrative law judge; 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.

A review of the Consent Findings indicates that the above requirements are met. The Consent Findings provide that they constitute a full and final resolution of all violations set forth in the Administrator's Determination letter dated January 18, 2019. The parties are directed to comply fully with their obligations under the Consent Findings.

IT IS THEREFORE ORDERED that the Consent Findings are hereby **APPROVED** and **ADOPTED** in full. The hearing scheduled for November 13, 2019 is **CANCELLED** and this matter is hereby **DISMISSED**. Each party will bear its own costs, including attorney fees and litigation expenses.

SO ORDERED.

LARRY A. TEMIN
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 (§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 for 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 review; the form in which submissions shall be made by the parties (*e.g.*, briefs); and the time within which such submission shall be made. 20 C.F.R. § 655.76(c). 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).