



Issue Date: 26 March 2019

Case No.: 2019-TNE-00010

In the Matter of

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

Prosecuting Party

v.

LANDESIGN, INC

Employer

DECISION AND ORDER APPROVING CONSENT FINDINGS

The above-captioned matter arises from alleged violations of the H-2B provisions of the Immigration and Nationality Act (“the Act” or “INA”), as amended 8 U.S.C. § 1101(a)(15)(H)(ii)(b), et seq., 1184(c)(14), and the regulations promulgated thereunder at 20 C.F.R. Part 655, and 29 C.F.R. Part 503. On March 25, 2019, the parties’ executed Consent Findings were received for review and approval.

As indicated in the Consent Findings the matter stems from an investigation conducted by the Administrator, U.S. Department of Labor, Wage and Hour Division (“Administrator”), regarding the application of LanDesign, Inc. (“Respondent”) for Temporary Employment Certification (“TEC”), and the Administrator’s Determination Letter issued November 19, 2018, detailing its investigative findings. Respondent timely contested the findings contained in the Determination Letter and requested a hearing on December 12, 2018.

Through the Consent Findings, the entire record on which this Decision and Order is based, consists of the Administrator’s Determination Letter, and the Consent Findings. Having reviewed Consent Findings executed by the parties, I find and conclude that they are appropriate in form and substance, clearly detail the respective duties and obligations of the parties, is fair, adequate, and reasonable, and was not procured by duress.

The Consent Findings, which more fully detail the terms of the agreement by the parties to settle the instant matter, are incorporated in their entirety and are set forth as follows herein.

The parties, Respondent LanDesign, Inc. (“Respondent”) and the Acting Administrator of the Wage and Hour Division, U.S. Department of Labor (“Administrator”), Prosecuting Party,

represent that they have reached an accord to resolve this matter, and to that end hereby stipulate and agree that:

1. This action arises under the Immigration and Nationality Act of 1952, P.L. 82-414, 66 Stat. 163, codified as amended at 8 U.S.C. § 1101 *et seq.* (“the INA”), as amended by the Immigration Reform and Control Act of 1996, P.L. 99-603, 100 Stat. 3359. Jurisdiction over the hearing in this matter is vested in the U.S. Department of Labor Office of Administrative Law Judges by the INA at §§ 103(a)(6), 214(c) and 20 C.F.R. Part 655, Subpart A and 29 C.F.R. Part 503.

2. On November 19, 2018, the U.S. Department of Labor, Wage and Hour Division issued a Determination Letter alleging violations of the H-2B provisions of the INA, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(b) and 1184(c)(14) to Respondent, covering the period of January 1, 2016 through December 10, 2017 and assessing civil money penalties. Specifically, the Determination Letter alleged that Respondent substantially failed to comply with conditions for two Applications for Temporary Certification, ETA Form 9142B with Appendix B, in violation of 29 C.F.R. § 503.5(a); 29 C.F.R. § 503.16(c); 29 C.F.R. § 503.16(m); and 29 C.F.R. § 503.16(s).

3. On December 12, 2018, Respondent filed a timely request for a hearing with respect to the allegations of violations set forth in the November 19, 2018 Determination Letter.

4. The Administrator hereby amends its November 19, 2018 Determination Letter to allege that Respondent owes a civil money penalty in the total amount of \$24,000.00.

5. Respondent withdraws its exception to the December 12, 2018 Determination Letter and agrees to pay \$24,000.00 in civil money penalties in full settlement of the violations alleged in Paragraph 2 of this Consent Findings Order. Payment shall be made in accordance with Paragraph 6 of this Consent Findings Order.

6. Respondent shall pay the civil money penalties, on or before April 30, 2019 by electronic payment on the website www.pay.gov, or by cashier or certified check.

- A. For electronic payments, go to <https://pay.gov/public/form/start/77734139>, select Continue to Form and complete the required fields.
 - a. Include the Case No. 1835394.
 - b. The Date of Assessment is the date of the Order.
- B. In the alternative, cashier or certified checks should be made payable to “Wage and Hour Division – Labor” and delivered to the following address:

**U.S. Department of Labor
Wage and Hour Division, Regional Office
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia PA 19106-3317.**

“**Case No. 1835394**” shall be written on the face of the check or money order.

7. Respondent hereby agrees to comply fully with the requirements of the H-2B program and applicable regulations.

8. The parties agree that an Order disposing of this proceeding in accordance with these Consent Findings shall have the same force and effect as an order made after a full hearing in accordance with 29 C.F.R. §§ 18.71(b)(1) and 503.49(b)(1).

9. The entire record on which this Order may be based shall consist solely of the Determination Letter, as amended herein, and these Consent Findings and Order, 29 C.F.R. §§ 18.71(b)(2) and 503.49(b)(2).

10. The parties hereby waive any further procedural steps before an Administrative Law Judge of the U.S. Department of Labor regarding this matter, 29 C.F.R. §§ 18.71(b)(3) and 503.49(b)(3).

11. Respondent hereby waives any right to challenge or contest the validity of these Consent Findings and Order entered into in accordance with the agreement, 29 C.F.R. §§ 18.71(b)(4) and 503.49(b)(4).

12. Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

The hearing scheduled for May 31, 2019 in Allentown, PA is canceled.

SO ORDERED.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill New Jersey