

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

Issue Date: 20 July 2020

CASE NO.: 2020-TNE-00044

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*In the Matter of:*

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

v.

**PARKVIEW NURSERY, INC.,**  
*Respondent.*

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**DECISION AND ORDER APPROVING SETTLEMENT**

This proceeding arises from the Secretary of Labor's enforcement of Temporary Non-agricultural Visa ("H-2B") provisions of the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.* ("INA" or "the Act"), as amended, and the implementing regulations set forth at 20 C.F.R. Part 655, and 29 C.F.R. Part 503. On May 20, 2020, the U.S. Department of Labor, Administrator, Wage and Hour Division, acting as agent for the Secretary of Labor ("Secretary"), issued a determination assessing civil money penalties against Respondent. By letter dated May 27, 2020, Respondent objected to the Secretary's Determination and requested an administrative hearing before an administrative law judge pursuant to 29 C.F.R. § 503.43 (2015).

On July 14, 2020, the Parties filed an Agreement, consisting of proposed Consent Findings and Order ("Agreement"), signed by both parties. Upon review of the Agreement, and the nature of the case, the Court finds the terms to be fair and reasonable and in substantial compliance with 20 C.F.R. § 18.71 and 29 C.F.R. § 503.43(b). The amount of the assessed penalty in the Agreement is adequate, and the Agreement was not procured under duress or coercion. The proposed consent findings are hereby adopted by the Court as findings of fact, and the Agreement is hereby incorporated into this decision.

In accordance with the terms of the Agreement, it is hereby **ORDERED**:

1. This Order shall have the same force and effect as an Order made after a full hearing;
2. The entire record forming the basis for this Order shall consist of the Determination Letter, the Request for Hearing, the Agreement and the provisions contained therein;
3. With the issuance of this order, the Request for Hearing filed in this matter is considered withdrawn, and all rights to further procedure before this tribunal, between the Parties, are deemed waived;
4. The Parties are deemed to have waived any right to challenge or contest the validity of the Consent Findings or this Order;
5. All violations alleged in the Determination Letter issued by the Administrator are deemed fully resolved by this Order, with regard to all Parties;
6. The Administrator shall reduce the aggregate civil money penalties (“CMPs”) to \$3,000.00 (“Adjusted Penalty”);
7. Respondent shall pay the Adjusted Penalty on or before September 14, 2020, in the form of a certified check or money order made payable to “Wage & Hour Division, U.S. Department of Labor.” Respondent will forward its payment in the U.S. Department of Labor, Wage and Hour Division, 525 S. Griffin Street, Room #800, Dallas, TX 75202. Respondent has the option to pay online by ACH transfer, credit card, debit card or digital wallet by going to <https://pay.gov/public/form/start/77803930> or by going to [www.pay.gov](http://www.pay.gov) and searching “WHD CMP Payment - SW Region”;
8. Respondent shall, at all times now and in the future, comply with all requirements of the H-2B provisions under the INA, all related regulations, and the conditions of the I-129 Petition;
9. The Office of Administrative Law Judges (“OALJ”) shall retain jurisdiction over the matter, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of this Order;
10. Enforcement proceedings for violation of this Order may be initiated at any time upon the filing, with the Administrative Law Judge, a motion for an order of enforcement and sanctions;

11. Each party shall bear its own fees and expenses incurred in connection with any stage of this proceeding, including but not limited to attorney's fees, which may be available under the Equal Access to Justice Act, as amended; and

12. This Order shall constitute the Final Administrative Order in this case.

**SO ORDERED.**

**JERRY R. DeMAIO**  
Administrative Law Judge

Boston, Massachusetts