



Issue Date: 17 April 2020

Case Number: 2020-TNE-00031

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION

Prosecuting Party,

v.

SPRING CREEK NURSERY OF ARKANSAS, LLC.

Respondent.

ORDER APPROVING CONSENT FINDINGS

This matter arises under the Immigration and Nationality Act (“INA”), as amended, 8 U.S.C. §§ 1101 *et seq.*, and the implementing regulations at 20 C.F.R. Part 655, docketed in the Office of Administrative Law Judges (“Office”) and assigned to me for a decision.

The District Director of the Department of Labor’s Wage and Hour Division (“WHD”) in Little Rock, Arkansas issued an Administrator’s Determination (Reference #1876235) on February 21, 2020 to Spring Creek Nursery of Arkansas (“Respondent”), finding violations of certain H-2B visa provisions regarding an Application for Temporary Employment Certification.¹ As a consequence of the violations, civil money penalties (“CMP”) in the amount \$6,786.30 were assessed. *See* 29 C.F.R. § 503.23. On March 16, 2020, Respondent filed a letter with this Office contesting the findings and requesting a hearing.

Due to the COVID-19 pandemic, this matter has not yet been scheduled for hearing. However, on April 10, 2020, counsel for the Administrator filed *Consent Findings* and a proposed *Decision and Order* indicating that the parties had, in fact, reached a resolution on all issues thereby obviating the need for a formal hearing. The Administrator agrees to modify the Determination Letter by reducing the CMP to \$5,089.73. Respondent agrees to withdraw its request for hearing and exception to the administrative determination and pay the abated CMP on or before April 30, 2020 by mailing a cashier’s check or other certified funds, identifying reference number 1876235 and payable to “U.S. Department of Labor - Wage and Hour,” to U.S. Department of Labor, Wage and Hour Division, 525 S. Griffin St., Room 800, Dallas, Texas 75202, or online.

¹ The determination letter alleged that Respondent owed \$1,618.70 in unpaid wages to three (3) workers covering the period on or about April 1, 2017 to on or about May 21, 2019, which Respondent has paid in full.

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) and are a satisfactory resolution of the issues previously contested. Accordingly, the *Consent Findings* are adopted and incorporated in full into this Order. Upon payment of the civil money penalty, this matter is DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge