



Issue Date: 04 June 2020

CASE NO.: 2020-TNE-00012

WHD NO.: 1865692

In the Matter of:

M & S SERVICES, LLC,
Employer.

CONSENT FINDINGS AND ORDER

Pursuant to 29 C.F.R. § 18.9 (1992) the Prosecuting Party, Administrator, Wage and Hour Division ("Administrator") and Respondent M & S Services, LLC and its successors ("Respondent"), submit these Consent Findings and Order. These Consent Findings and Order constitute a full and final resolution of this action and of all issues raised by the Administrator's Determination Letter issued to Respondent on December 18, 2019.

JURISDICTION AND PROCEDURAL HISTORY

1. This action arises under the Immigration and Naturalization 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 Act of 1990, P.L. 101-649, 104 Stat. 4978, the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, P.L. 102-232, 105 Stat. 1733 and the American Competitiveness and Workforce Improvement Act of 1998 ("ACWIA"), P.L. 105-277, 112 Stat. 2861-641. Jurisdiction over the hearing in this matter is vested in the Office of Administrative Law Judges by INA Section 212(n)(2), 20 C.F.R. §§ 655.820-840.
2. The issues resolved by these Consent Findings and Order were identified initially during an investigation conducted by Wage-Hour from November 13, 2018 through September 30, 2019.
3. On December 18, 2019, the Administrator issued to Respondent a Determination Letter identifying alleged violations of the H-2B provisions of the INA.
4. Within the time period provided by 20 C.F.R. § 655.71, Respondent filed a Request for Hearing with respect to the allegations set forth in the Determination Letter.

GENERAL PROVISIONS

5. These Consent Findings and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing.
6. The entire record forming the basis on which the Order is entered shall consist of the December 18, 2019, Determination Letter and attachments thereto, and these agreements and consents.
7. The parties to these Consent Findings and Order hereby waive all further procedural steps between themselves before the Administrative Law Judge.
8. The parties to these Consent Findings and Order hereby waive any right to contest the validity of these findings or of any Order entered in accordance herewith.
9. All violations alleged in the Determination Letter issued by the Administrator on December 18, 2019 shall be deemed fully resolved by these Consent Findings and Order.¹
10. These Consent Findings and Order shall become final immediately upon approval of the Administrative Law Judge. The effective date of these Consent Findings and Order shall be the date of approval by the Administrative Law Judge.
11. Respondent withdraws the aforesaid exception to administrative determination.

REPORTING AND ENFORCEMENT

12. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of these Consent Findings and Order, is retained by the Office of Administrative Law Judges.
13. Enforcement proceedings for violation of these Consent Findings and Order may be initiated at any time upon filing with the Administrative Law Judge a motion for an order of enforcement and sanctions.
14. Each party will bear its own fees and other expenses incurred by such party 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.

¹ Respondent filed Articles of Termination on or about January 16, 2019, by which M & S Services, LLC was dissolved. Respondent has also satisfied the amounts of all back wages alleged due in the December 18, 2019 Determination Letter . Therefore, the Administrator withdraws her demand for civil money penalties and no further action is required.

15. These Consent Findings and Order shall constitute the final Administrative Order in this case.

SO ORDERED.

PCJ/ksw
Newport News, Virginia

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge