



Issue Date: 10 December 2020

Case Number: 2021-TNE-00011

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION,
Prosecuting Party,

v.

DOWN TO EARTH LANDSCAPING,
Respondent.

DECISION AND 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 and assigned to me for a decision.

The Assistant District Director of the Department of Labor’s Wage and Hour Division (“WHD”) located in Lawrence Township, New Jersey issued an Administrator’s Determination (Reference #1893957) on October 13, 2020 to Down to Earth Landscaping, Inc. (“Respondent”), finding violations of certain H-2B visa provisions regarding an Application for Temporary Employment Certification covering the period January 1, 2018 to December 31, 2019. As a consequence of the violations, back wages owed to 116 workers in the amount of \$26,044.32 were assessed. Respondent was also assessed civil money penalties (“CMPs”) in the amount \$23,026.04. By letter dated November 9, 2020, Respondent requested a hearing before the U.S. Department of Labor, Office of Administrative Law Judges.

However, on December 8, 2020, counsel for the Administrator filed *Consent Findings* and a proposed *Decision and Order* indicating that the parties have 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 \$17,269.53. In return, Respondent agrees to withdraw its exception to the Determination Letter, as amended, and pay the abated CMP and back wages within 21 days of the date of this Decision and Order in accordance with the instructions set forth in the Consent Findings.

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 approved and adopted and incorporated in full into this Order. Upon payment of the back wages and CMP, this matter is DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge