



Issue date: 15Mar2001

CASE NO. 2000-LCA-12

IN THE MATTER OF

EMPLOYMENT STANDARDS ADMINISTRATION,
WAGE AND HOUR DIVISION,
U.S. DEPARTMENT OF LABOR,
Prosecuting Party

v.

ORANGE STATE REALTY, INC.,
D/B/A RAMADA INN AND SUITES,
Respondent

APPEARANCES:

Ray Batine, Esq.
On behalf of Prosecuting Party

Dr. Surendra P. Agarwal
On behalf of Respondent

DECISION AND ORDER

This case arises under the H-1B provisions of the Immigration and Nationality Act (the Act), as amended, 8 U.S.C. §§ 1101,1182, and its implementing regulations at 29 C.F.R. Part 655, Subparts H and I, relating to Labor Condition Applications and Requirements for Employers Using Non-immigrants on H-1B Visas in Speciality Occupations and Enforcement of H-1B Labor Condition Applications (LCA).

On July 25 and September 13, 2000, the Administrator of the Wage and Hour Division, issued an initial and amended Administrator's Determination pursuant to 20 C.F.R. Part 655.815, alleging that Respondent violated: (1) 20 C.F.R. Parts 655.731 and 655.805 (a)(6) by failing to pay the required wage rate to H-1B non-immigrant, Ashish Marya (Marya); (2) 20 C.F.R. Parts 655.734 and 655.805 (a)(9), by failing to provide notice of the filing of an LCA in two or more conspicuous places at the intended place of employment; and (3) 20 C.F.R. Parts 655.730 (c)(1)(i) and 655.805(a)(1), by misrepresenting Marya's job title on the LCA. As a result of the alleged violations

the Administrator assessed Respondent a civil monetary penalty of \$250.00 and required Respondent to pay Marya \$1,417.00 in back wages.

On September 26, 2000, Respondent, filed a response to the Administrator's Determination denying the allegations and pursuant to 20 C.F.R. Part 655.820, requesting an administrative hearing which was scheduled for January 30, 2001, in Orlando, Florida. However, on January 26, 2001, the parties reached a settlement of the issues raised by the Administrator's Determination and accordingly, the hearing was canceled.

By way of the Settlement Agreement, which was signed in final form on February 20, 2001, Respondent while not admitting the violations as alleged by the Administrator represents that it: (1) it is presently in compliance with all applicable provisions of the Act and will continue to comply with the provisions of the Act in the future; (2) has paid the \$250.00 civil monetary penalty and has paid Marya \$1,417.00; and, (3) withdraws its request for hearing.

Upon a review of the record, the Settlement Agreement is formally approved.

IT IS ORDERED that:

1. This Order shall have the same force and effect as an final order made after full hearing;
2. The entire record upon which this Order is based shall consist solely of the Administrator's letters of Determination dated July 25 and September 13, 2000 and the Settlement agreement executed by the parties;
3. Each party shall bear its own costs, fees, and expenses as they were incurred in connection with any stage of these proceedings;
4. The parties waive any further procedural steps before this office and any right to challenge the validity of these proceedings or any order entered in accordance herewith.

IT IS FURTHER ORDERED that this matter is hereby Dismissed With Prejudice.

CLEMENT J. KENNINGTON
Administrative Law Judge