



Issue Date: 24 March 2015

Case No. 2013-TAE-12

In the Matter of:
WALMAC FARMS, LLC.,
d/b/a WALMAC FARM,
Respondent.

DECISION AND ORDER APPROVING CONSENT FINDINGS

This complaint arises under the Immigration & Nationality Act, as amended by the Immigration and Reform Control Act of 1986, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a); 1184(c) and 1186, and the implementing regulations at 20 C.F.R. Part 655 and 29 C.F.R. Part 501 and the Temporary Agricultural Alien Employment – Immigration & Nationality Act, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a) and 29 C.F.R. Part 501. On March 23, 2015, the parties informed the undersigned that this matter had settled, and submitted the executed Consent Findings and Order (Consent Findings) for my review. The contents of the Consent Findings and attached Exhibits A-C, are incorporated by reference as if fully set out herein.

The parties agree that the following alleged violations, unpaid wages and civil money penalties have been settled for the following amounts:

20 C.F.R. § 655.104(h)(1): Failure to comply inbound transportation requirements. The Respondent will pay \$1,947.00 in unpaid wages. The Respondent will pay a civil money penalty of \$2,000.

20 C.F.R. § 655.104(h)(2): Failure to comply outbound transportation requirements. The Respondent will pay \$1,848.00 in unpaid wages. The Respondent will pay a civil money penalty of \$2,000.

20 C.F.R. § 655.104(e): Failure to comply with Employment-Related laws. No workers were owed wages as a result of this violation. No civil money penalty was assessed for this violation.

20 C.F.R. § 655.102(k)(1), 655.102(k)(2), 655.102(k)(3): Failure to comply with Recruitment Requirements. No workers were owed wages as a result of these violations. No civil money penalty was assessed for these violations.

20 C.F.R. § 655.135(a): Unlawful rejection of U.S. workers. The Respondent will pay \$6,000.00 in unpaid wages. The Respondent will pay a civil money penalty of \$7,500.00.

20 C.F.R. § 655.122(q): Failure to provide workers copy of work contract. No workers were owed wages as a result of this violation. The Administrator has agreed to waive the \$750.00 civil money penalty.

20 C.F.R. § 655.122(1): Failure to required wage rate. The Respondent will pay \$9,116.86 in unpaid wages. The Respondent will pay a civil money penalty of \$5,000.00.

20 C.F.R. § 655.135(e): Failure to comply with Employment-Related laws. The Respondent has already paid the \$1,319.16 in unpaid wages. The Administrator has agreed to waive the \$2,100.00 civil money penalty.

20 C.F.R. § 655.135(c), 655.156(a), 655.156(b): Failure to comply with recruitment requirements. No workers were owed wages as a result of these violations. The Respondent will pay a civil money penalty of \$500.00.

The Respondent agrees to pay a total of \$18,900.00 in unpaid wages to the individuals listed in Exhibit A. The form of payment will be check or money order and it will be made payable to the "U.S. Department of Labor, Wage and Hour Division." The parties agree that the payments will be postmarked in accordance with the due dates in Exhibit B. The payments are to be mailed to: U.S. Department of Labor, Office of the Solicitor, 618 Church Street, Suite 230, Nashville, TN 37219. The Respondent agrees that if it fails to comply with the payment due dates as specified in Exhibit B then the entire remaining balance will immediately become due. The parties agree that there is no penalty for early payment of the unpaid wages.

The Department of Labor will attempt to locate and distribute the appropriate funds to the former employees. Any monies not distributed within three (3) years from the date of this Consent Order, because of inability to locate the proper persons or because of such persons' refusals to accept such sums, shall be deposited to the Treasury of the United States as miscellaneous receipts.

The Respondent agrees to pay a total of \$17,000.00 in civil money penalty in accordance with the schedule in Exhibit C. The parties agree that the payments will be postmarked in accordance with the due dates in Exhibit C. The civil money penalty payments will be made by check or money order and it will be made payable to the U.S. Department of Labor, Wage and Hour Division. The payments will be mailed to: U.S. Department of Labor, Office of the Solicitor, 618 Church Street, Suite 230, Nashville, TN 37219. The Respondent agrees that if it fails to comply with the payment schedules of the civil money penalty specified in Exhibit C then the entire remaining balances will immediately become due. The parties agree that there is no penalty for early payment of the civil money penalty.

Accordingly,

IT IS HEREBY ORDERED that the Consent Findings filed on March 23, 2015, are **APPROVED**, and thereby become the final order of the Secretary and may be enforced pursuant to 29 C.F.R. §1982.113.

IT FURTHER ORDERED that the complaint filed in this matter is **DISMISSED WITH PREJUDICE**.

PETER B. SILVAIN, JR.
Administrative Law Judge