



Issue Date: 26 November 2014

OALJ Case No.: 2014-TAE-2

In the Matter of

**OLD TREE FARMS, LLC. and
VERPAALEN CUSTOM SERVICE, LLC.,**

Respondents

ORDER APPROVING CONSENT FINDINGS

This matter arises under § 218 of the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.* ("INA") as amended by the Immigration Reform and Control Act of 1986, Pub L. 99-63, § 301, 100 Stat. 3359, 341 ("IRCA") and the implementing regulations at 20 C.F.R. Part 655 and 29 C.F.R. Part 501.

On November 20, 2014, the Office of the Solicitor in Denver, Colorado, U.S. Department of Labor, counsel for the Administrator of the Wage and Hour Division, U.S. Department of Labor ("Plaintiff"), filed with the Office of Administrative Law Judges Consent Findings with a proposed Order. Plaintiff alleged that Old Tree Farms, LLC and VerPaalen Custom Services ("Respondents") committed various violations of the INA, including failing to pay fourteen (14) of its workers the proper pay rate under the INA and violating terms and conditions of the temporary labor certifications with respect to H-2A workers by employing H-2A workers outside the area of intended employment or in activities not listed in the job order. Plaintiff sought back wages of \$38,172.77 and a civil money penalty of \$18,900.00, among other penalties.

The Consent Findings filed with this Office state that the parties agree that Respondents will pay the full amount of back wages in the amount of \$38,172.77 and a civil money penalty in the amount of \$11,827.23 to Plaintiff before December 1, 2014. Additionally, for purposes of H-2A compliance only, Respondents admit that they committed a violation under 29 C.F.R. § 501.20(d)(i)(vii). Respondents therefore agree that they will be debarred from receiving certifications under 8 U.S.C. § 1188(a)(1) for three

years, beginning on December 1, 2014 and ending on December 1, 2017. Respondents further agree that Ms. Johanna ("Sonja") Verpaalen will attend and testify as Plaintiff's witness at the trial on the related case against Employment USA, LLC and Kevin Opp, which is set to begin on December 9, 2014. Finally, Respondents agree to comply in the future with all applicable H-2A provision of the INA and its implementing regulations.

The INA rules of procedure for administrative proceedings are set forth in 29 C.F.R. Part 501. Section 501.40 provides that the presiding Administrative Law Judge shall accept any agreement containing consent findings if he or she is "satisfied with its form and substance." After reviewing the terms of the agreement, I am satisfied that the agreement conforms to the requirements set forth in § 501.40 and is a satisfactory resolution of the issues previously contested. Accordingly, the Consent Findings, which are attached, are APPROVED and ADOPTED as part of this Order in their entirety.

SO ORDERED.

WILLIAM S. COLWELL
Associate Chief Administrative Law
Judge

Washington, D.C.
WSC: wfh