



Issue Date: 26 February 2018

Case No.: 2014-TAE-00006

In the Matter of:

SEASONAL AG SERVICES, INC. and
YIDA (BECVAR) WALKER,
Respondents.

ORDER APPROVING CONSENT FINDINGS

This matter arises under the H-2A provisions of the Immigration and Nationality Act, 8 U.S.C. § 1188 *et seq.*, as amended, and the implementing regulations found at 20 C.F.R. Part 665 and 29 C.F.R. Part 501. In a *Decision and Order of Remand* issued on September 30, 2016,¹ the Administrative Review Board (ARB) held that my December 5, 2014 *Decision and Order* in this matter applied an incorrect legal standard in determining whether certain U.S. workers were employees of Seasonal Ag Services under the H-2A program's regulations, and remanded the case to the Office of Administrative Law Judges (OALJ) for a determination under the correct legal standard. However, the parties subsequently conferred and reached a settlement obviating the need for a hearing.

On February 15, 2018, the Administrator filed a *Motion to Accept and Adopt Consent Findings*, signed by representatives for Respondents, the Prosecuting Party, and Platte River Insurance Company, the bond company who issued the surety bonds covering the period at issue in this case.

Pursuant to the terms of the Agreement, the Bond Company agrees to pay the Administrator \$15,000.00, representing back wages owed to some 136 individuals.² Respondent then agrees to repay the Bond Company \$15,000.00. In exchange for these amounts, the Administrator agrees to eliminate all civil money penalties owed and assessed against Respondents. In addition, Respondents agree that should they restart work as a Farm Labor Contractor, their operations will be in compliance with all applicable laws and regulations. These actions would resolve all issues for litigation.

Section § 501.40(d) 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."

¹ See *Adm'r, Wage & Hour v. Seasonal Ag Servs., Inc.*, ARB No. 15-023, OALJ No. 2014-TAE-006 (ARB Sept. 30, 2016).

² The \$15,000.00 encompasses the \$9,699.74 previously owed by Respondent pursuant to my December 5, 2014 decision.

After reviewing its terms, I am satisfied that the agreement conforms to the requirements set forth in § 501.40(b)(1)-(4) and is a satisfactory resolution of the issues previously contested.

The terms of the *Consent Findings* filed on February 15, 2018 are APPROVED and are adopted and incorporated in full into this Order. Upon payment of the agreed sums, this matter is DISMISSED WITH PREJUDICE.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge