



Issue Date: 05 December 2017

OALJ Case No.: 2018-TAE-00003

*In the Matter of:*

MISS LOU HARVESTING, INC.

*Respondent*

**ORDER APPROVING CONSENT FINDINGS**

This proceeding arises under the H-2A provisions of the Immigration and Nationality Act (“INA”), as amended by the Immigration Reform and Control Act (“IRCA”), 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1186, and regulations found at 20 C.F.R. Part 655 and 29 C.F.R. Part 501.

On April 21, 2015, and September 9, 2015, the Administrator, Wage and Hour Division, U.S. Department of Labor, issued determination letters to Respondent assessing \$14,483.48 in unpaid wages and \$45,300.00 in civil money penalties (“CMPs”) for violations of the INA during the periods January 1, 2014 through January 17, 2015. Respondent timely requested a hearing on the assessment of CMPs, but did not challenge the computation of back wages.<sup>1</sup>

On November 29, 2017, the Administrator filed an *Order of Reference and Consent Findings*, in which Respondent agrees to pay \$5,363.35 to satisfy the remaining unpaid back wages and the Administrator will reduce the CMPs to \$5,000 plus interest, provided Respondent adheres to the payment terms and conditions set forth in the agreement.<sup>2</sup>

29 C.F.R. § 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.”

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<sup>1</sup> While Respondent has apparently made partial payments, it still owes \$5,363.35 in back wages and all of the assessed CMPs. However, Respondent represents, and the Administrator has verified, that it suffers from financial hardship and lacks sufficient assets to pay both the remaining back wages and the assessed civil penalties.

<sup>2</sup> Respondent agrees to submit a certified check in the amount of \$5,363.35 to the Administrator, Wage and Hour Division for back wages owed no later than 60 days from the date of this Order. Respondent further agrees to pay \$5,000.00 plus interest in modified CMPs in three monthly installments, with the first installment of \$1,669.45 due no later than 90 days from the date of this Order, the second installment of \$1,669.45 due no later than 30 days from the date of the first installment is due, and the final installment of \$1,669.44 due no later than 30 days from the date the second installment is due.

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 November 29, 2017 are APPROVED, and adopted and incorporated in full into this Order. This case is hereby DISMISSED.<sup>3</sup>

SO ORDERED:

**STEPHEN R. HENLEY**  
Chief Administrative Law Judge

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<sup>3</sup> However, in the event Respondent defaults on the terms and conditions set forth in the *Consent Findings* and this Order, the Administrator's conditional amendment referenced in paragraph 6 of the *Consent Findings* and Order becomes void and the final original assessed CMP amount of \$45,300.00 is reinstated.