



Issue Date: 08 January 2020

CASE NO.: 2019-TAE-00009

In the Matter of:

NIMMER TURF AND TREE FARMING, INC.,
Respondent.

ORDER ON CONSENT FINDINGS

A hearing in this matter was scheduled for April 12, 2019 in Columbia, South Carolina. It was canceled after the parties requested appointment of a settlement judge. The settlement judge proceedings were successful and, on December 26, 2019, the parties submitted their consent findings for review. Upon review, the consent findings are approved. Accordingly, IT IS HEREBY ORDERED:

1. This action arises under the Immigration and Nationality Act ("Act"), 8 U.S.C. § 1101, *et seq.*, and Regulations found at 20 C.F.R. Part 655 and 29 C.F.R. Part 501. Jurisdiction over the hearing in this matter is vested in the Office of Administrative Law Judges by 29 C.F.R. § 501.37.
2. The issues resolved by these Consent Findings and Order were identified during investigations conducted by the Wage and Hour Division ("WHD").
3. On March 23, 2018, the WHD Administrator issued a Determination Letter to Respondent identifying alleged violations of the H-2A provisions of the Act.
4. Within the time period provided by 29 C.F.R. § 501.33, Respondent filed a Request for Hearing with respect to the allegations of violations set forth in the Determination Letter.
5. These Consent Findings and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing.
6. The entire record forming the basis on which the Order is entered shall consist of the Determination Letter, as amended herein, Respondent's Notice of Appeal/Request for Hearing, related filings, and these agreements and consents.
7. The parties to these Consent Findings and Order waive all further procedural steps between themselves before the Administrative Law Judge.
8. The parties waive any right to challenge or contest the validity of these Consent Findings and Order.
9. None of the violations alleged in the Determination Letter issued by the Administrator, as amended herein, were issued as willful violations of the

- temporary labor contract and the base penalty for each of the violations affirms the finding that none of the violations were “willful.”
10. All violations alleged in the Determination Letter, as amended herein, are and shall be deemed fully resolved by these Consent Findings and Order with regard to both the Complainant and the Respondent.
 11. These Consent Findings and Order shall become final immediately upon approval of the Administrative Law Judge. The effective date of these Consent Findings and Order shall be the date of approval by the Administrative Law Judge.
 12. Respondent withdraws the aforesaid exception to the administrative determination.
 13. Respondent withdraws its Request for Hearing filed in this matter.
 14. The Administrator amends the administrative determination issued on March 23, 2018 to reduce the amount of alleged civil money penalties to a total of \$15,000.00
 15. Respondent agrees to pay a total of \$15,000.00 in civil money penalties within thirty (30) days of this Order. Payments shall be made payable to “Wage and Hour Division – Labor” and sent to the following address:

Wage and Hour Division
Columbia District Office
Strom Thurmond Federal Building
1835 Assembly Street, Room 1072
Columbia, SC 29201

16. Respondent agrees to provide the following maintenance to each of its residences housing H-2A workers: bi-annual pest control and monthly HVAC and septic systems inspections. Respondent further agrees to inspect each of its residences housing H-2A workers at least monthly regarding damage and applicable safety and health standards.
17. Nothing contained in the parties’ agreement is intended to preclude, prevent, or limit Respondent’s ability to petition for and receive future temporary labor certifications from the U.S. Department of Labor and/or the USCIS.
18. Nothing in these Findings shall be deemed an admission by Respondent of any of the allegations contained in the aforementioned Determination Letter.
19. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of the Consent Findings and Order is retained by the Office of Administrative Law Judges.
20. Enforcement proceedings for violation of these Consent Findings and Order may be initiated at any time upon the filing with the Administrative Law Judge a motion for an Order of enforcement and sanctions.
21. Each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceedings, including but not

limited to attorney's fees which may be available under the Equal Access to Justice Act, as amended.

22. These Consent Findings and Order shall constitute the final Administrative Order in this case.

SO ORDERED.

PCJ/ksw
Newport News, Virginia

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge