U.S. Department of Labor

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Issue Date: 24 April 2019

Case No.: 2019-TAE-00016

In the Matter of:

SIRI AND SONS FARMS, INC.,
d/b/a SIRI AND SONS FARMS and JOSEPH SIRI,
Respondents.

ORDER APPROVING CONSENT FINDINGS

This proceeding arises under the H-2A provisions of the Immigration and Nationality Act ("Act"), 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 December 1, 2017, the Administrator, Wage and Hour Division, United States Department of Labor ("Prosecuting Party"), issued a determination letter to Respondents assessing unpaid wages in the amount of $203,112.57 to 180 workers and civil money penalties ("CMP") in the amount of $44,100.00 for alleged violations of the Act between the periods March 11, 2014 to September 9, 2014. Respondent objected and requested a hearing on December 20, 2017. However, the parties subsequently conferred and reached a settlement obviating the need for a hearing.

Accordingly, on April 17, 2019, the Administrator contemporaneously filed an *Order of Reference* and *Consent Findings*, in which the parties agree that Respondents shall: ensure they comply with all recruitment requirements, including advertising for the correct position a prospective worker would fill; treat U.S. workers and H-2A workers equally with no preferential treatment given to H-2A workers with respect to benefits, wages and working conditions; provide housing at no cost to H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence within the same day and obtain the required certification with respect to such housing; provide all of their workers with the tools, supplies, and equipment required to perform their assigned duties; pay for all required transportation and subsistence costs; ensure that any transportation provided complies with applicable Federal, State and/or local laws and regulations; pay workers at least the adverse effect wage rate, the prevailing hourly wage rate, the prevailing wage rate, the agreed-upon collective bargaining rate or the Federal or State minimum wage rate in effect at the time the work is performed, whichever is highest, and must post an H-2A poster in a conspicuous place frequented by H-2A workers; provide a copy of the work contracts between the Respondents and the H-2A workers no later than the time at which each H-2A worker applies for a visa and, for

workers in corresponding employment, provide a copy of the work contract no later than the day work commences, both in a language understood by the worker as necessary or reasonable under the circumstances; and provide notices to U.S. and H-2A workers posted in a conspicuous place frequented by H-2A workers, in English and Spanish, regarding their rights under the H-2A program and contact information for Wage and Hour Division. 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." 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 April 17, 2019 are APPROVED, and adopted and incorporated in full into this Order. This case is hereby DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge