



Issue Date: 20 July 2021

CASE NO.: 2021-TAE-00013

In the Matter of:

FLYING PLOW FARM

Respondent

DECISION AND ORDER APPROVING CONSENT FINDINGS

This matter arises under the Immigration and Nationality Act (“INA”), as amended by the Immigration and Reform Control Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(a), and the implementing regulations at 20 C.F.R. Part 655 and 20 C.F.R. Part 501. On January 17, 2020, the Administrator, U.S. Department of Labor, Wage and Hour Division (“Administrator”) issued a Determination Letter containing a Summary of Violations to Flying Plow Farm (“Respondent”). The Summary of Violations stated that the Wage and Hour Division investigated and found the following violations of the H-2A provisions of the INA: (1) the Respondent failed to comply with the requirement to pay inbound transportation and subsistence costs from the place of recruitment in violation of 20 C.F.R. § 655.122(h)(1); and (2) the Respondent failed to provide safe and secure housing that complied with the applicable housing safety and health standards in violation of 20 C.F.R. § 655.122(d)(1). As a result, the Administrator assessed a total of \$2,082.00 in civil monetary penalties.¹ Subsequently, on February 12, 2020, the Respondent timely requested a hearing before the Office of Administrative Law Judges (“OALJ”).

This matter is scheduled for hearing on October 13, 2021. The Parties have submitted Consent Findings pursuant to 29 C.F.R. § 18.71 and 29 C.F.R. § 501.40, resolving all disputed issues and constituting a full and final resolution of such issues. Therefore, the scheduled hearing is **CANCELLED**.

In accordance with the provisions of 29 C.F.R § 6.18(c), I find that the Consent Findings are fully satisfactory in both form and substance, and are accepted. Each fact set forth within the body of the Consent Findings document is hereby adopted. Based upon the Consent Findings, which I incorporate herein by this reference, **I HEREBY ORDER** that:

1. The terms of the Consent Findings appear fair and reasonable and reflect a reasonable resolution and are approved;

¹ The Administrator also determined that the Respondent owed \$160.00 in back wages to four workers, which the Respondent paid.

2. The Respondent will pay \$1,041.00 in civil money penalties to the Administrator, within 30 days of the date of this Decision and Order;²
3. Nothing in the Consent Findings shall be deemed an admission by the Respondent to any of the allegations contained in the January 17, 2020, Determination Letter;³
4. The Respondent affirms that, as of the date of execution of the Consent Findings, it is complying and will remain compliant in the future with all provisions of the INA, associated regulations, other applicable regulations and federal wage standards;⁴
5. All matters and violations addressed in the January 17, 2020 Determination Letter have been fully and finally resolved by these Consent Findings;
6. The Respondent's timely payment of \$1,041.00 in civil money penalties constitutes full satisfaction of all back wages owed and civil monetary penalties assessed in this matter;
7. The entire record on which this Order is based consists solely of the Administrator's Determination Letter and the Consent Findings;
8. Each Party shall bear its own costs, attorney's fees, and expenses as were incurred by them in connection with any stage of these proceedings;
9. Each Party waives further procedural steps before an Administrative Law Judge and any right to challenge or contest the validity of these findings, the Determination Letter or any order entered in accordance herewith;

SO ORDERED.

FRANCINE L. APPLEWHITE
Administrative Law Judge
Washington, D.C.

² If the Respondent fails to make the agreed payment within ten (10) days of the date scheduled, the entire amount shall immediately become due and payable together with such additional collection and court costs as may be incurred by the Administrator in pursuing collection.

³ The parties agree that these Consent Findings cover the relevant investigative period from April 2, 2019 through August 30, 2019. The parties also agree that these Consent Findings shall not, in any way, affect, determine, or prejudice any and all rights of any persons.

⁴ The Administrator does not waive its right to conduct future investigations.