

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 31 October 2013**

**OALJ Case No: 2013-TLC-00064**

**ETA Case No: H-300-13207-255540**

*In the Matter of:*

**STAN SWEENEY, LLC,**  
*Employer*

Certifying Officer: William L. Carlson  
Chicago Processing Center

**ORDER OF REMAND**

This case involves the labor certification for temporary and seasonal agricultural employment of nonimmigrant foreign workers (H-2A workers) under the Immigration and Nationality Act (INA), as amended, 8 USC 1101, et seq., and its implementing regulations at 20 CFR Part 655, Subpart B. The Employer filed a timely request for formal hearing before an Administrative Law Judge of the Certifying Officer's actions in the Notice of Deficiencies issued pursuant to 20 CFR §655.141 as related to the Employers' respective application for temporary employment certification filed under the H-2A program. A formal hearing was scheduled to commence at 9:00 AM EDT, Thursday, October 10, 2013. Due to the government wide shut down from October 1, 2013 through October 16, 2013, inclusive, the formal hearing was cancelled.

On October 28, 2013, Employer's counsel filed a copy of a settlement agreement that indicated the Employer would submit a modified "Application for Temporary Employment Certification" in this case. On October 31, 2013 a prehearing conference call was held with both Parties represented. Employer's counsel indicated that a "clean" application had been submitted to the Certifying Officer on October 29, 2013 to modify the current application to work described as a general farm laborer from the period from November 1, 2013 through March 31, 2014. Counsel for the Solicitor reported that the Certifying Officer still required a copy of the recruitment report and a copy of the workers' compensation insurance binder. He stated that the "clean" application had been assigned the new ETA case number H-300-13302-064819. After discussion of the procedural requirements of 20 CFR §655.142 concerning modification of an submitted application, Employer's counsel indicated that the requested recruitment report and workers' compensation insurance binder along with a pen and ink modification of the existing application (ETA Form 9142) and job order (ETA Form 790) would be submitted to the Certifying Officer, attention Mr. John Roderman.

In view of all the foregoing, **this case is hereby REMANDED to the Certifying Officer pursuant to 20 CFR §655.171 for action pursuant to 20 CFR §655.142.**

ALAN L. BERGSTROM  
Administrative Law Judge

ALB/jcb  
Newport News, Virginia