



In the Matter of:

JOHN PEROULIS & SONS SHEEP, INC.;

ARB CASE NO. 14-012

and

ALJ CASE NO. 2012-TAE-004

LOUIS PEROULIS, individually,

DATE: January 15, 2014

and

STANLEY PEROULIS, individually,

RESPONDENTS.

Appearances:

For Respondents:

Sam D. Starritt, Esq. and Matthew A. Montgomery, Esq.; *Dufford, Waldeck, Milburn & Krohn, LLP*; Grand Junction, Colorado

For the Principal Deputy Administrator, Wage and Hour Administration:

M. Patricia Smith, Esq.; Jennifer S. Brand, Esq.; William C. Lesser, Esq.; Paul L. Frieden, Esq.; Diane A. Heim, Esq.; *U.S. Department of Labor*, Washington, District of Columbia

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; and Joanne Royce, *Administrative Appeals Judge*

ORDER DISMISSING INTERLOCUTORY APPEAL

On October 23, 2013, a Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order (D. & O.) in this case arising under the H2-A provisions of the Immigration and Nationality Act of 1986, as amended by the Immigration Reform and Control Act of 1986.¹ The D. & O. substantially affirmed the Wage and Hour

¹ 8 U.S.C.A. § 1101 *et seq.* (Thomson/West 2010).

Division's factual allegations giving rise to civil money penalties it assessed, but remanded the case to the WHD to reconsider the civil money penalties assessed for the range housing violations.²

Respondents filed an interlocutory order of the ALJ's decision on December 6, 2013. Where an ALJ has issued an order of which the party seeks interlocutory review, the ARB has elected to look to the procedures set forth in 28 U.S.C.A. § 1292(b) to determine whether to accept an interlocutory appeal for review.³ Because Respondents did not obtain certification of the appeal as provided in these procedures, we ordered them to show cause why the Board should not dismiss their interlocutory appeal for failure to follow Board procedure and establish grounds for such appeal.

In response to the Board's order, Respondents aver that their appeal was protective only and filed in an abundance of caution to preserve their rights in case the Board considered the ALJ's D. & O. to be final. Respondents further state that because the Board has determined that the ALJ's order was not final, there is no reason for the appeal to proceed at this time. Accordingly, we **DISMISS** Respondents' interlocutory appeal.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

² *John Peroulis & Sons Sheep, Inc.*, ALJ No. 2012-TAE-004, slip op. at 34 (Oct. 23, 2013).

³ *Powers v. Pinnacle Airlines, Inc.*, ARB No. 05-138, ALJ No. 2005-SOX-065, slip op. at 5 (ARB Oct. 31, 2005); *Plumley v. Federal Bureau of Prisons*, 1986-CAA-006 (Sec'y Apr. 29, 1987).