



In the Matter of:

**ADMINISTRATOR, WAGE
AND HOUR DIVISION,**

PROSECUTING PARTY,

v.

WADE SHOWS, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ARB CASE NO. 15-052

ALJ CASE NO. 2013-TNE-001

DATE: April 12, 2017

ORDER DISMISSING APPEAL

This case arises under the H-2B provisions of the Immigration and Nationality Act (INA), 8 U.S.C.A. §§ 1101(a)(15)(H)(ii)(b) (Thomson West 2005 & Supp. 2016.), and its implementing regulations at 20 C.F.R. Part 655, subpart A (2016). After an investigation, the Department of Labor’s Wage and Hour Division (WHD) cited Respondent Wade Shows, Inc., for several violations based on its H-2B visa application and assessed monetary penalties. Wade Shows appealed, and an Administrative Law Judge (ALJ) issued an order on April 10, 2015, granting in part and denying in part the motions for summary judgment that the parties filed.

Wade Shows filed a timely Petition for Review with the Administrative Review Board (ARB) on May 10, 2015, seeking “protective review” of the summary judgment decision. The Administrator filed a response on May 14, 2015, stating that, because Wade Shows had filed a subsequent motion to dismiss with the ALJ, the summary judgment decision was not ripe for appeal. By Order dated June 16, 2015, the ARB granted the Administrator’s request to hold the Petition for Review in abeyance pending the ALJ’s decision on Wade Shows’ motion to dismiss.

By Order dated January 31, 2017, the ARB directed the parties to file a status report. In its response, the Administrator stated that it did not oppose the ARB's dismissal of this case with prejudice and vacatur of the ALJ's April 10, 2015 decision. In its response, Wade Shows agreed with the Administrator that the ARB should dismiss its appeal. Wade Shows also asked that the ARB vacate the ALJ's monetary penalty of \$4,500.00.

Accordingly, the ARB dismisses this appeal and vacates the ALJ's April 10, 2015 decision in its entirety.

FOR THE ADMINISTRATIVE REVIEW BOARD

**Janet R. Dunlop
General Counsel**