



DATE: JAN 14 1992

Case No.: 92-TAE-1

In the Matter of:

KEVIN HARPER,  
Respondent.

### DECISION AND ORDER PURSUANT TO SETTLEMENT

This matter arises under the Immigration Reform and Control Act of 1986, and the implementing regulations at 29 C.F.R. Part 501.

By Notice of Civil Money Penalty, dated July 8, 1991, pursuant to section 301 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1188), and in accordance with 29 C.F.R. Part 501, Respondent was assessed a total civil money penalty of \$4,200.00, for allegedly failing to comply with its contractual obligations under section 216 of the Immigration and Nationality Act, specifically the "H-2A" program. On August 9, 1991, Respondent filed a request for a hearing, pursuant to 29 C.F.R. § 501.33. Thereafter, the Regional Administrator of the Wage and Hour Division, United States Department of Labor, by Order of Reference filed November 13, 1991, referred this matter to the Chief Administrative Law Judge, pursuant to 29 C.F.R. § 501.37(a). On November 15, 1991, this matter was assigned to the undersigned for a hearing and decision, and a hearing was scheduled for January 9, 1992. On December 10, 1991 Ms. von Wrangel, of the office of the Associate Regional Solicitor, acting as attorney for the Secretary of Labor, telephoned this office to inform that a settlement had been reached in this matter on December 9, 1991. On December 31, 1991, the parties filed Consent Findings and a Proposed Order approving settlement, pursuant to 29 C.F.R. § 501.40, a copy of which is attached hereto and incorporated herein by reference. Therein Respondent certifies that he is presently in compliance with all provisions of the Immigration Reform and Control Act of 1986, 8 U.S.C. 1188 *et seq.*, and the regulations issued thereunder and, further, states that he will continue to act in compliance therewith.

Under the terms of the agreement, Complainant modifies the Notice of Penalty dated July 8, 1991, by reducing the assessed civil money penalty to \$1,704.00. Respondent agrees to pay the \$1,704.00 penalty at a rate of \$142.00 per month, due by the 15th of each month, with payments beginning January 15, 1992 and ending December 15, 1992.

Upon review of the record, the Consent Findings are hereby of this matter. It is ORDERED that:

- 1) this order shall have the same force and effect as an order made after full hearing; and

- 2) the entire record upon which this order is based shall consist solely of the order of reference and the consent findings; and
- 3) any further procedural steps before this office are waived; and,
- 4) any right to challenge or contest the validity of this order entered into in accordance with this agreement is waived.

Pursuant to the terms of this agreement, this matter is hereby DISMISSED WITH PREJUDICE.

At Washington, D.C.

Entered:

by:

JAMES GUILL  
Associate Chief Judge



Respondent hereby withdraws his exceptions to the assessed civil money penalty, agrees to the aforesaid modified penalty as final and binding, and agrees to pay the \$1,704.00 penalty, at the rate of \$142.00 per month, each monthly payment to be due by the 15th, with payments beginning January 15, 1992 and ending December 15, 1992.

VII

Any order entered in accordance with these consent findings shall, pursuant to 29 C.F.R. 501.40(b), have the same force and effect as an order made after full hearing.

VIII

The entire record upon which any final Order may be based shall, pursuant to 29 C.F.R. 501.40(d), consist of the notice of penalty as modified herein and these consent findings.

IX

All further procedural rights provided by 29 C.F.R. Part 501 and any rights to contest and validity of these consent findings or any order issued pursuant thereto are hereby waived. See, 29 C.F.R. 501.40(b)(3) and (4).

KEVIN HARPER

Daniel W. Teehan  
Regional Solicitor

Date: 12-12-91

Robert A. Friel  
Associate Regional Solicitor

By:

Faye von Wrangel  
Trial Attorney

Attorneys for Secretary of Labor  
U.S. Department of Labor

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Washington, D.C. 20001-8002

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In the Matter \* Case No. 92-TAE-1  
KEVIN HARPER, an individual. \*  
\*\*\*\*\*

**PROPOSED ORDER**

This matter arises under the Immigration Reform and Control Act of 1986, 8 U.S.C. 1188 and 29 C.F.R. §501.

On December \_\_, 1991 the parties filed Consent Findings in which Complainant modified the notice of civil money penalties dated July 8, 1991, for \$4,200.00. In the same Consent Findings, Respondent withdrew his exceptions to the assessed civil money penalties.

The parties agreed to reduce the assessed civil money penalties to \$1,704.00, payable at the rate of \$142.00 per month, beginning on January 15, 1992 and ending on December 15, 1992. Upon consideration of the record and Consent Findings, I hereby Order that the Consent Findings are Approved and incorporated herein by reference. The Consent Findings constitute my findings of fact and conclusions of law. The Consent Findings shall serve as full, final, and complete settlement of the assessed civil money penalties.

James Guill  
Associate Chief Judge

Dated: December \_\_, 1991  
Washington, D.C.