



UNITED STATES DEPARTMENT OF LABOR

OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

CASE NO.

AYCOCK BROS., INC.,

92-TAE-3

Respondent.

CONSENT FINDINGS

This action arises under the H-2A provisions of the Immigration and Nationality Act of 1952, as amended by the Immigration Reform and Control Act of 1986 [8 U.S.C. §§1101(a)(15)(H)(ii)(a), 1184(c), and 1186], hereinafter "the Act," and Regulations at 20 C.F.R. Part 655.90, et seq., and 29 C.F.R. Part 501, for final administrative determination of violations and assessment of civil money penalties under the Act.

1. Upon written notice issued May 9, 1991, pursuant to §1186(g)(2) of the Act and Regulation 29 C.F.R. 501.19, the Administrator of the Wage and Hour Division, United States Department of Labor, assessed a civil money penalty against respondent for alleged violations of the Act and applicable regulations.

2. Respondent, by letter dated June 7, 1991, made a timely request for a hearing on such assessment in accordance with Regulation 29 C.F.R. 501.33(a).3. Pursuant to 29 C.F.R. 501.37(a) and 29 C.F.R. 18.15(e), the Administrator amends the assessment and written notice of administrative determination as follows:

- a. Item 1, regarding failure to provide a copy of the contract, is amended by reducing the civil money penalty from \$200 to \$150;
- b. Item 4, regarding failure to pay wages when due, is amended by reducing the civil money penalty from \$100 to \$50;
- c. Item 5, regarding failure to pay proper rate, is amended by reducing the civil money penalty from \$250 to \$200; and
- d. Item 10, regarding failure to provide transportation/subsistence, is amended by reducing the civil money penalty from \$200 to \$150.

4. Without admitting or denying the allegations of the administrative determination as so amended, respondent agrees pursuant to 29 C.F.R. 501.40 to the entry of consent findings and an order disposing of this proceeding which shall have the same force and effect as an order made after a full hearing.

5. The entire record on which such final order will be based is to consist solely of the amended notice of administrative determination, respondent's request for a hearing, the Order of Reference, the Consent Findings, and the Decision and Order.

6. Respondent waives any further procedural steps before the Administrative Law Judge and waives any right to challenge or contest the validity of the findings and order entered into in accordance with this agreement.

7. Respondent has tendered to the Administrator a certified check for the full amount of the reduced civil money penalty of \$550, made payable to "Wage and Hour - Labor."

8. The Administrator shall forward the consent findings and order in this matter, and other appropriate information disclosed in the investigation, to the Regional Administrator for the Employment and Training Administration, United States Department of Labor, in accordance with 29 C.F.R. 501.21.

9. This settlement shall not be a bar to the taking of other action authorized by the H-2A provisions of the Act, 29 C.F.R 501.16 or 20 C.F.R. Part 655. Nothing contained herein shall be construed to preclude a finding of violation by, or to absolve respondent from any sanctions applied by, the Employment and Training Administration under 20 C.F.R. 655.110.

10. Respondent specifically reserves, however, the right afforded by 20 C.F.R. 655.110(a) to request either an expedited administrative review or a de novo hearing before an Administrative Law Judge within seven calendar days of the date of any notice from the Employment and Training Administration that such sanctions are to be imposed.

11. Each party shall bear its own costs, fees and expenses as were incurred by it in connection with any stage of these proceedings.

Dated 12 day of March, 1992.
Wayne Aycock
President
Aycock Bros., Inc.

MARSHALL J. BREGER
Solicitor of Labor

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Regional Solicitor

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