



Date: April 12, 2000

Case No. 2000-TAE-2

In the Matter of:

ELLIOTT & WILLIAMS ROSES, INC.

Respondent

Upon a request for hearing regarding the payment of back wages and assessment of a civil money penalty under 29 C.F.R. Part 501.

DECISION AND ORDER APPROVING CONSENT FINDINGS

The parties, pursuant to 29 C.F.R. § 501.40 hereby agree to the following:

1. This matter arises under the Immigration Reform and Control Act of 1986 (8 U.S.C. § 1188, et seq.), hereinafter the “Act”, and the Regulations at 29 C.F.R. Part 501.
2. At all times pertinent hereto, Respondent was an employer within the meaning of 29 C.F.R. § 501.10(i).
3. Upon written notice dated December 21, 1999, in accordance with 29 C.F.R. §§ 501.16 and 501.19, Respondent was notified concerning back wages allegedly owed, and was assessed a civil money penalty for alleged violations of the work contract as defined at 29 C.F.R. § 501.10(d).
4. Within thirty (30) days of receipt of the aforesaid back wages and civil money penalty notice, Respondent made a timely request for hearing on such back wages and penalties, in accordance with 29 C.F.R. § 501.33.
5. Respondent, without admitting or denying the violations alleged by the Administrator, represents that it is in compliance with all applicable provisions of the Act and Regulations thereunder and will continue to comply in the future.
6. Respondent agrees to pay back wages to each employee in the amount listed on Schedule “A”, attached hereto and made a part hereof, on or before April 14, 2000, or to their estates if that shall become necessary. Respondent shall provide the Administrator with verification on or before May 15, 2000 that the employees have been paid. Any back wages not distributed by Respondents by May 15, 2000,

because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be returned to the Administrator and deposited into the treasury of the United States as miscellaneous receipts.

7. The Administrator hereby amends the aforementioned assessment of penalty to \$4,500.00.

8. Respondent agrees to immediately pay the penalty, as amended, by cashier's or certified check or money order payable to "Wage and Hour Division - Labor." In view of the aforesaid agreements, Respondent agrees to withdraw its request for hearing.

9. The Administrator and the Respondent agree that:

(a) the final order disposing of this proceeding shall have the same force and effect as an order made after full hearing;

(b) the entire record upon which such final order is based shall consist solely of the notices of administrative determinations and these agreements and consents; and

(c) each party shall bear its own costs, fees and expenses as were incurred by it in connection with any stage of these proceedings (including attorney fees).

10. The Administrator and Respondent waive:

(a) further procedural steps before and Administrative Law Judge; and

(b) any right to challenge or contest the validity of these findings or any order entered in accordance herewith.

This Administrative Law Judge, having reviewed the Consent Findings, concludes that this settlement is in the best interests of all the parties and it is therefore **ORDERED** that the settlement agreement shall be, and the same hereby is **APPROVED** pursuant to the provisions of 29 C.F.R. § 501.40

DAVID W. DI NARDI
Administrative Law Judge

Boston, Massachusetts
DWD:jd