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Issue Date: 24 December 2003

CASE NO.: 2003-LCA-0027

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION,
Complainant,

v.

SOFTWARE ASSOCIATE, INC.,
Respondent.

**DECISION AND ORDER APPROVING SETTLEMENT
AGREEMENT AND CONSENT FINDINGS**

This is a proceeding arising out of the enforcement provisions relating to labor condition applications for H-1B visas of the Immigration and Nationality Act, as amended ("INA"), 8 U.S.C. § 1101 *et seq.* with implementing regulations appearing at 20 C.F.R. Part 655.800 *et seq.* A hearing in the instant case scheduled to be held before the undersigned administrative law judge on December 18 to 19, 2003, in Detroit, Michigan was cancelled at the request of the parties because they had reached a settlement. On December 19, 2003, counsel for the Administrator of the Wage and Hour Division filed a Settlement Agreement and Consent Findings dated December 17, 2003 and signed by the Vice President of Respondent Software Associate, Inc., by counsel for Software Associate, Inc., and by counsel for the Administrator. Attached to the Settlement Agreement and Consent Findings is an accompanying "Exhibit A," listing the underpaid non-immigrant H-1B workers and the amount due to each. I have examined the Settlement Agreement and Consent Findings together with Exhibit A and conclude that they should be approved.

Accordingly, I make the following Findings and issue the following Order:

FINDINGS

1. All issues in contest between the Administrator and Respondent Software Associate, Inc. have been resolved by the Settlement Agreement and Consent Findings. Specifically, the parties have agreed that within thirty days of entry of the Settlement Agreement and Consent Findings, Respondent Software Associate will pay the sum of \$297,327.54 for distribution to the underpaid employees in the amounts listed in Exhibit A. Any sums that cannot be distributed to

the employees or their personal representatives after three years are to be deposited with the Treasurer of the United States as miscellaneous receipts.

2. This Decision and Order incorporating the Settlement Agreement and Consent Findings shall have the same force and effect as an Order made after a full hearing.

3. The entire record on which this Decision and Order is based shall consist solely of the Settlement Agreement and Consent Findings and the June 6, 2003 Determination Letter issued by the Administrator.

4. The parties have waived any further procedural steps before the undersigned administrative law judge and the Administrative Review Board as well as any rights to challenge or contest the validity of this Decision and Order.

5. The Settlement Agreement and Consent Findings comport in all material respects with the requirements of 29 C.F.R. § 18.9, as applicable pursuant to 29 C.F.R. § 655.829.

6. All of the findings, terms and conditions of the Settlement Agreement and Consent Findings and Exhibit A thereto are incorporated by reference herein.

ORDER

IT IS HEREBY ORDERED that the Settlement Agreement and Consent Findings be, and hereby are, **APPROVED**, and the parties shall comply with the terms thereof; and

IT IS FURTHER ORDERED that Respondent Software Associate, Inc. shall pay to the Administrator, Wage and Hour Division, the sum of \$297,327.54, payable as provided in the Settlement Agreement and Consent Findings; and

IT IS FURTHER ORDERED that this action be, and hereby is, **DISMISSED WITH PREJUDICE**; and each party shall bear its own costs, expenses, and attorney fees incurred in connection with this action.

A
PAMELA LAKES WOOD
Administrative Law Judge

Washington, D.C.