

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

United States of America, Complainant v. Lectro Tek Services, Inc.,  
Respondent, 8 U.S.C. 1324a Proceeding; Case No. 89100510.

ORDER OF DISMISSAL-SETTLED

**E. MILTON FROSBURG**, Administrative Law Judge

Appearances: **KRISTIN W. OLMANSON**, Esquire, for the Immigration and  
Naturalization Service

**JAMES TARRANT**, Registered Agent, for Respondent

Procedural Background:

Complainant, United States of America, through its Attorney, Gregory E. Fehlings, filed a Complaint against Respondent, Lectro Tek Services, Inc., on September 29, 1989. Exhibit A of the Complaint consisted of the Notice of Intent To Fine served by the Immigration and Naturalization Service (INS) on September 6, 1989, Exhibit B was the Respondent's request for a hearing before an Administrative Law Judge submitted by Anita Blankenship, for Respondent and dated September 20, 1989.

On October 11, 1989, the Office of Chief Administrative Hearing Officer issued a Notice of Hearing on Complaint Regarding Unlawful Employment, assigning me as the Administrative Law Judge in this case and advising the parties that the hearing was to be held in or around Seattle, Washington, at a date and time to be established.

The proceeding, thus initiated in this office, involves liability for civil penalties for violation of Section 274A of the Immigration and Nationality Act (the Act), as amended by Section 101 of the Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C. Section 1324a.

On May 7, 1990, the parties submitted a Joint Motion For Dismissal predicated upon a Settlement Agreement between the parties. A copy of the Settlement Agreement was enclosed with the Motion. The Motion and Settlement Agreement were executed by Attorney Olmanson for the Complainant and by James Tarrant, Registered Agent for the Respondent.

Although the regulatory treatment of dismissals is more cursory and less rigorous than is the treatment of consent findings, 28 C.F.R. Section 68.12, nothing contained in the regulation should be understood as denying to the Administrative Law Judge the power to inquire, indeed, the obligation in an appropriate case, concerning the form and substance of an underlying agreement to obtain a dismissal.

I have carefully reviewed the Settlement Agreement and accept it as the predicate for dismissal of this proceeding, and not as the predicate for consent findings and a decision by me as the Administrative Law Judge.

There being no apparent reason to disturb the intent of the parties to terminate this proceeding and to remit them to a posture as if there had been no request for a hearing under 8 U.S.C. Section 1324a(e)(3), it is appropriate that I grant the Joint Motion to Dismiss in the instant proceeding based upon their notification made pursuant to 28 C.F.R. Section 68.12(a)(2).

I note, however, that the parties recite, at paragraph 11 of the Settlement Agreement, that the Agreement is effective on the date it is executed by the parties. The parties are reminded that the Agreement does not become effective until after the dismissal of the action by the Administrative Law Judge.

Accordingly,

1. The hearing originally scheduled to be held in or around Seattle, Washington, is hereby cancelled.
2. This proceeding is dismissed, settled.

**IT IS SO ORDERED:** This 15th day of May, 1990, at San Diego, California.

E. MILTON FROSBURG  
Administrative Law Judge