

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE**

In the Matter of:)	CAC No. 17-001-02
Department of Labor Enforcement)	DC No. 17-001
and Compliance Section,)	
Complainant,)	ADMINISTRATIVE ORDER
v.)	
)	
YWA Human Resource CNMI Corporation,)	
Respondent.)	
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This Compliance Agency Case/Denial Case came on for hearing on March 9, March 28, and May 2, 2017, in the Administrative Hearing Office of the CNMI Department of Labor, located on Capitol Hill, Saipan. The Department of Labor Enforcement and Compliance Section was represented by James Ulloa.

Respondent YWA Human Resource CNMI Corporation appeared through its President, Matthew S. Fejeran, its General Manager, Benigno T. Fejeran, and its accountant, Rogelio C. Valguna. Real Party In Interest Zaji Zajradhara testified in support of his claim. Employee Rosalee Abejo testified in support of Respondent. Hearing Officer Jerry Cody, presiding.

After hearing the testimony and reviewing the record, the Hearing Officer makes the following Findings of Fact and Conclusions of Law:

AGENCY CASE

This case is based on a Determination, Notice of Violation and Notice of Hearing (“Determination”) filed by the Department of Labor Enforcement and Compliance Section (“Enforcement”) in the Hearing Office on February 17, 2017, against respondent YWA Human Resource CNMI Corporation (“Employer”). [A copy of the Determination was entered into evidence as Hearing Exhibit 1.]

The Determination (Hearing Exhibit 1) alleges that Employer failed to comply with several labor regulations and statutes:

- (1) Employer failed to post numerous Employer Declarations on the Department of Labor (“DOL”) website in 2016, in connection with job

vacancy announcements (“JVAs”) posted for 17 jobs in violation of CNMI Employment Rules and Regulations (“Regs.”), codified in the Northern Marianas Administrative Code (“NMIAC”) at § 80-20.1-235(e).

- (2) Employer failed to make a good faith effort to hire U.S. status-qualified citizens for job vacancies in violation of Regulations at NMIAC § 80-20.1-235(d).
- (3) Employer failed to give a citizen, Zaji Zajradhara, job preference for employment in the private sector. [Regs. at NMIAC § 80-20.1-220.] Moreover, Employer unjustly rejected that qualified U.S. citizen for a job, giving rise to damages under 3 CMC §§ 4528(a) and 4528(f)(1).

* * * * *

1. Employer Failed to Post “Employer Declarations” to Prospective Job Applicants.

The Department’s “Employer Declaration” Regulation requires an employer to post an online “declaration” on the DOL website (www.marianaslabor.net) in cases where the employer posted a job vacancy, then failed to hire a U.S.-status qualified job applicant who was referred for that particular job. [Regulations at NMIAC § 80-20.1-235(e).] In such cases, the regulation requires the employer to post a short response to each responder, explaining: (1) the action it took with respect to each applicant who posted a response to the job vacancy; and (2) the reason(s) why that person was not hired for the position. *Id.* If a U.S. citizen is hired for the position, the employer is not required to post a declaration to the other job applicants. *Id.*

In its Determination, Enforcement charged that Employer failed to post Employer Declarations with respect to 17 JVAs that Employer posted in 2016:

<u>JVA No.</u>	<u>Job Title</u>	<u>JVA: Opening Date</u>
16-10-42266	Kitchen Helper	10/21/16
16-10-42205	Childcare	10/15/16
16-10-42206	Childcare	10/15/16
16-10-42182	Carpenter	10/13/16
16-10-42101	Maid & Housekeeping	10/10/16
16-10-42094	Forman – Septic System Operation	10/08/16
16-10-42095	Carpenter	10/08/16
16-10-42096	Plumber	10/08/16

16-10-42019	Painter	10/05/16
16-10-41880	Greeters	9/29/16
16-10-41124	Hairstylist/Beautician	8/12/16
16-10-41106	Marketing Research Analyst	8/11/16
16-10-40802	Sales Representative-Org. Produce	7/23/16
16-10-39914	General Maintenance	6/15/16
16-10-38265	Greeters	5/20/16
16-10-37308	Maid & Housekeeping	4/07/16
16-10-36603	Childcare	3/04/16

At Hearing, Employer testified that the company had decided to cancel the first 10 of the above-listed JVAs (Kitchen Helper through Greeters) when it learned that the federal cap for hiring CW1-status workers for 2017 had been reached and that no further CW1 petitions for 2017 employment would be granted by USCIS. [Testimony of Mr. Benigno T. Fejeran.] Although Employer decided to abandon these JVAs, Employer never notified DOL or took steps to cancel the JVAs, and never posted declarations to the online responders for these jobs. (See further discussion of this conduct on page 4, item 2.)

As to the remaining 7 positions, Employer did not hire U.S. citizens or permanent residents for 6 of these positions (excepting Greeters), but instead hired CW1-status workers. Employer failed to post declarations to the online responders. At Hearing, Employer then admitted it had not posted declarations, but noted that it did consider the responders for these jobs. Employer sent each responder an invitation to appear for a job interview, yet none of them showed up. [Testimony of Ben T. Fejeran, Matthew S. Fejeran, and Rogelio Valguna.] Enforcement did not challenge Employer’s assertions that it properly considered responders in 5 out of the 7 posted JVAs; however, two JVAs were contested. As to those two JVAs (Greeter and Events/ Marketing Coordinator), testimony was taken with respect to allegations made by a U.S. citizen, Zaji Zajradhara. (See discussion on pp. 5-8).

Holding: Employer violated the Regulation [NMIAC § 80-20.1-235(e)] by failing to send “declarations” to online responders of 16 of the above-listed JVAs, explaining why they had not been hired to those jobs.¹ As to the first 10 JVAs that Employer claims to have abandoned, a simple notification should have been sent, informing each applicant that Employer had decided not to proceed with the hiring.

¹ As to the JVA for Greeter (JVA 16-10-38265), Employer was not legally required to file declarations because it hired U.S. citizens to fill the positions. [See language of NMIAC § 80-20.1-235(e).]

As to the remaining JVAs, Employer should have sent “declarations” to each responder after it made its hiring decisions.

Enforcement recommended that Employer be sanctioned for its conduct. The Hearing Officer agrees that sanctions should be assessed. The amount of such sanctions will be addressed at the conclusion of this Order (see “Sanctions” at pp. 10-11).

2. Employer failed to make a good faith effort to hire U.S. status-qualified citizens for job vacancies in accordance with Regulations at NMIAC § 80-20.1-235(d).

Employer admitted that it abandoned 10 JVAs when it learned that the cap for CW1 Petitions had been reached for 2017. [Testimony of Ben Fejeran.] Mr. Fejeran’s answer reveals an uncomfortable truth about this Employer’s manpower operation – namely, that these manpower jobs were designed to protect employment for *particular CW1 workers*. The evidence demonstrates that Employer had no interest in opening up the field to possible employment of U.S. citizens. This is why Employer closed its job search for 10 positions as soon as it learned that the CW workers in these jobs could not be renewed.

Such conduct evidences a lack of good faith with respect to affording U.S. citizens and permanent residents their legal preference in employment. [Regs. at NMIAC § 80-20.1-220]. In addition, Employer’s treatment of Zaji Zadradjara with respect to the Events/Marketing Coordinator job evidences a failure to make a good faith effort to hire U.S. citizens. [See discussion at pp. 6-7 regarding the Events and Marketing Coordinator job.]

3. Employer failed to give a U.S. citizen, Zaji Zajradhara, job preference for employment in the private sector, in violation of Regulations at NMIAC § 80-20.1-220. In addition, Employer unjustly rejected this qualified U.S. citizen for a job. 3 CMC § 4528(a).

Enforcement charged that Employer failed to give preference in employment to U.S. citizen, Zaji Zajradhara (hereinafter, “Zaji”), with respect to two jobs – Greeter and Events and Marketing Coordinator - for which Zaji claimed he had attempted to submit job applications. These two JVAs are discussed separately below.

A. Greeter

Employer posted a JVA (JVA No. 16-05-38265) from May 20 to June 4, 2016, advertising five positions for “Greeter.” [A copy of the JVA was entered into evidence as Hearing Exhibit 3.]

On about May 25, 2016, Mr. Zaji emailed Employer about the JVA and attached his resume. Zaji stated that he was attaching his resume “for the JVA position 16-05-38265.” [A correct copy of the JVA was entered into evidence as Hearing Exhibit 4.] Employer’s staff, Rose Abejo, replied to Zaji about an “electrician position,” stating that Employer had emailed Zaji back in April 2016, but he never showed up.² *Id.* Zaji replied that “this resume submission was for the position as advertised as ‘greeters’ (JVA) 16-05-38265.” Employer’s accountant, Mr. Valguna, then replied: “Oh, ok, but the hiring is filled up already. We will notify you next time hiring. Thanks, Roger.” *Id.*

Employer testified that it posted this “Greeter” JVA for its client, Imperial Pacific International (CNMI) LLC, *dba* Best Sunshine International (“Best Sunshine”), which sought greeters for its casino operation. Employer’s practice was to post the JVA, then contact the online responders and invite them to come to Employer’s office on a certain date. On that date, Employer would send the applicants to Best Sunshine’s office to be interviewed. Best Sunshine would choose which applicants it wished to employ; Employer would follow Best Sunshine’s instructions and hire the individuals that its client had selected. [Testimony of Ben T. Fejeran and Matthew S. Fejeran.]

As to the Greeter position posted in May 2016, Employer testified that it sent two U.S. citizen walk-in applicants (Matthew Fejeran’s nephew and a U.S. citizen named Ethan P. Reyes) to Best Sunshine to interview for the Greeter job; these two applicants were hired. After selecting the two applicants, Best Sunshine informed Employer that it did not need more Greeters. At that point, Employer considered the job search closed and it stopped sending applicants to Best Sunshine to be interviewed. Employer neglected to officially “cancel” the JVA by contacting DOL’s Job Placement Section. [Testimony of Mr. Valguna and Ms. Abejo.]

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² At Hearing, Rose Abejo testified that when she received Zaji’s email (Hearing Exhibit 4), she mistakenly thought he was re-applying for an electrician position that Employer had posted months earlier. In fact, Zaji was trying to apply for the “Greeter” job. [Testimony of Ms. Abejo.]

The evidence shows that by the time Zaji contacted Employer about the Greeter job on May 25, 2016, the two U.S. citizen applicants had already been hired and Employer had heard from Best Sunshine that it no longer needed Greeters. For that reason, Mr. Valguna informed Zaji that the position was closed. [Testimony of Mr. Valguna; Hearing Exhibit 4.]

Holding: The Department of Labor does not prohibit an employer from cancelling a JVA. Based on the facts presented, Employer acted reasonably in not forwarding Zaji's resume to Best Sunshine and in telling Zaji that the position was closed. After all, Best Sunshine had already selected two U.S. citizen greeters and informed Employer that it did not wish to hire any more. Employer can be faulted for failing to officially cancel the JVA, but otherwise, this conduct does not constitute a failure to abide by CNMI preference laws.

B. Events and Marketing Coordinator

In early June 2016, Employer's client, Best Sunshine, informed Employer that Best Sunshine had been using a CW1 worker (Joel Tagalicud) through a manpower arrangement with St. Trading and now, Best Sunshine wanted the worker transferred from St Trading to Employer. [Testimony of Mr. Valguna and Ms. Abejo.]

Obliging its client, Employer posted a JVA (JVA No. 16-06-40026) advertising the job of "Events and Marketing Coordinator." The JVA was posted on DOL's website from June 18 to July 3, 2016. [A correct copy of the JVA was entered into evidence as Hearing Exhibit 9.]

On June 19, 2016, Zaji sent an email to Employer with a subject line that read: "JVA No. 16-06-40026." Zaji attached his resume and stated: "Attached you shall find my resume for the position as advertised. I thank you in advance for your consideration." [A copy of this email was entered into evidence as Hearing Exhibit 10; Zaji's resume was entered into evidence as Hearing Exhibit 11.]

Employer received Zaji's email but never responded to it. Ms. Abejo testified that when she received the email, she paid no attention to the listed JVA number; instead, she searched Zaji's name in the company's records and believed he was applying for construction work. [Testimony of Ms. Abejo.]

Ms. Abejo testified that after posting the JVA, Employer sent an email to the five persons who had posted online responses to the JVA, inviting them to come to

Employer's office for interviews on June 24 and 27, 2016. Nobody showed up for the interview. Shortly thereafter, Employer hired the CW1-status worker (Joel Tagalicud) who had been referred by Best Sunshine for the position.

In its Determination, Enforcement charged that Employer had failed to give legal preference in employment to Zaji Zajradhara, a U.S. citizen, in violation of the Regulations. [Regs. at NMIAC § 80-20.1-220.] By oral motion, Enforcement also invoked the provisions of 3 CMC § 4528(a) and its damage provisions; and thereby recommended that Zaji be awarded damages amounting to six months of wages, based on the employer's unjust rejection of his application. [Hearing Exhibit 1 at p. 3, recommendation "b."]

(1) Mr. Zajradhara's Claim Under 3 CMC § 4528(a).

The four elements of an offense under 3 CMC § 4528(a) are: (1) the U.S. citizen is qualified for a job; (2) the employer has not met the requirements of 3 CMC § 4525; (3) the employer rejects the citizen's application for the job without just cause; and (4) the employer then hires a person who is not a U.S. citizen or permanent resident, such as a CW1-status worker, for the position.³

Based on the evidence presented, the Hearing Officer finds that each element of the offense has been met. First, Zaji appears qualified for the advertised job. The JVA (Hearing Exhibit 9) listed the job requirements as "With 2 years work experienced. Hardworking and can handles pressure. Can work night shift and flexible to any type of works." The JVA described the job duties using convoluted descriptions and obtuse phrases. One such example, taken from the job duties section, states: "Analyze research, data, or technology to understand user intent and measure outcomes for ongoing optimization." At Hearing, Employer's Accountant described the job duties in simpler terms. According to Mr. Valguna, the job of Events and Marketing Coordinator involved communicating with local hotels to do the promotion and marketing for the casino. This included distributing fliers, monitoring greeters who distribute fliers at the airport, talking to travel agents and interacting with hotel management to promote the casino operation. [Testimony of Mr. Valguna.]

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³ 3 CMC § 4528(a) states: "A citizen, CNMI permanent resident, or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of Section 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen, CNMI permanent resident, or U.S. permanent resident for the job."

Zaji's resume (Hearing Exhibit 11) was not a model of clarity, but it did set forth nine separate jobs he claims to have held during the past 20 years. The jobs contained no dates of service, but Zaji testified as to those dates. According to Zaji, one job at "The Source, Blaze and Mixer Magazine(s)," held from 1995 to 1998 in New York City, involved supervising teams in the distribution of hip-hop promotional fliers. Zaji also worked as a research assistant, a bar owner, a part-time English instructor, a technician, and the co-owner of a rental leasing business. [*Id.* and Testimony of Mr. Zajradhara.] Zaji's work history, though eclectic, satisfies the vague requirement of two years of unspecified work experience that was listed in the JVA. Given Zaji's resume and the posted JVA requirements, he should have been interviewed, and he appeared qualified, for the advertised job.

The second element of a Section 4528(a) offense is that employer has not met the requirements of 3 CMC § 4525. That statute requires employers to maintain a minimum workforce participation goal of 30%, meaning that 30% of Employer's full-time workforce must consist of U.S. citizens or U.S. permanent residents. [3 CMC § 4525 and Regs. at NMIAC § 80-20.1-210(c)(3).] Employer currently employs 66 full-time employees, of which only 13 employees are U.S. citizens or permanent residents and 53 employees are CW1-status workers. [Total Workforce Listing submitted by Employer on 5/03/17.] Thus, Employer's current workforce participation percentage is 19.6%, well below the minimum requirement of 30%. Accordingly, this second element of the offense is met.

The third element of a Section 4528(a) offense is met if the employer rejects an application for the job without just cause. Employer, in effect, rejected Zaji's application without just cause when the Employer failed to respond to Zaji's clear attempt to apply for the position of Events and Marketing Coordinator.⁴

The fourth element of a Section 4528(a) offense is satisfied if the employer then hires a person who is not a citizen, etc., such as a CW1-status worker. That occurred in this case when Employer filed a CW1 Petition and hired the transfer employee from St. Trading (Joel O. Tagalicud) who had been referred to the Employer by Best Sunshine. [Testimony of Mr. Valguna.]

⁴ As stated earlier, Ms. Abejo testified that she simply made an "honest mistake" when she failed to read the JVA number in Zaji's email (Hearing Exhibit 10) and therefore, she failed to schedule Zaji for an interview for the Events and Marketing Coordinator job. The Hearing Officer finds that Ms. Abejo's testimony lacks credibility. Zaji expressly stated the JVA number in his simple, straightforward email (see Hearing Exhibit 10). Employer's failure to read the JVA number posted in the subject line, cannot be explained away as an "honest mistake."

(2) Damages under 3 CMC § 4528(f)(1):

For violations under 3 CMC § 4528(a), the Hearing Officer is authorized to “award actual and liquidated damages in an amount up to six months’ wages for the job for which a citizen...applied.” 3 CMC § 4528(f)(1). If Zaji had been properly interviewed and hired for the Events and Marketing Coordinator job, he would have been paid \$9.00 per hour (Hearing Exhibit 9); total wages for six months (July through December 2016) would have amounted to \$9,360.00. The Hearing Officer looks to whether Zaji was able to mitigate his damages by obtaining other employment during the six-month period following the JVA. Mr. Zaji reported that he remained unemployed from July 1, 2016, until November 28, 2016; however, on November 28, 2016, Zaji became employed and worked through December 31, 2016, earning a total of \$1,960.12 in wages. [Email from Mr. Zajradhara, sent in response to question from Hearing Officer, on 5/04/17.]

Holding: The Hearing Officer finds that the appropriate damage award for this violation should be the maximum statutory amount (six months’ wages totaling \$9,360) minus the wages earned by Zaji during the six-month period (\$1,960), for a total award of \$7,400.00. In addition, Employer should be required to pay a monetary sanction for such conduct, pursuant to 3 CMC § 4528(f)(2). [See Discussion under Sanctions, at pp. 10-11.]

DENIAL CASE

On January 31, 2017, DOL’s Job Placement Section issued a Notice of Denial (“Denial”) of Employer’s Request for a Certificate of Good Standing. This case is based on appellant YWA Human Resource CNMI Corporation’s timely appeal of that Denial: D.C. No. 17-001. [The caption of the Denial Case should read: *YWA Human Resource CNMI Corporation (Appellant) vs. Department of Labor – Citizen Job Availability and Citizen Job Placement Section (Appellee)*.]

The Department’s Denial was based on the same charges that form the basis of the above adjudicated Agency Case. [See items 1-3, listed herein, on pp. 1-2.] As discussed in detail above, the Hearing Officer finds that Employer committed the offenses charged in the Compliance Agency Case and this Denial.

In the Compliance Agency case, Employer shall be ordered to pay both sanctions and damages, amounting to more than \$10,000.00. [See Order at pp. 11-13, ¶¶ 1-7.] Employer testified that the jobs of its 66 full-time employees could be placed in jeopardy if Employer fails to obtain a Certificate of Good Standing. [Testimony

of Ben T. Fejeran and Rogelio Valguna.] Presumably, these employees are blameless with respect to the cited charges, yet they might bear the burden of the penalty by losing their jobs, if a Certificate of Good Standing were denied to this Employer.

Although Employer's conduct deserves to be sanctioned, no useful purpose would be served by denying it a Certificate, if Employer also pays substantial fines and damages for its conduct. For this reason, the Hearing Officer holds that as soon as Employer has paid the sanctions and damages ordered herein in the Compliance Agency Case (CAC No. 17-001-02), the Denial of the Certificate of Good Standing should be reversed, and a Certificate issued to Appellant YWA Human Resource CNMI Corporation. [Order at p. 12, ¶ 6.]

SANCTIONS

In its Determination, Enforcement asked that Employer be sanctioned with the maximum fine of \$2,000 for *each* violation. [Hearing Ex. 1 at p. 3.] If sanctions were to be assessed for each separate JVA, it would result in a sanction of \$34,000 against Respondent. At Hearing, Enforcement indicated that it would accept the Hearing Officer's discretionary ruling in this matter. [Testimony of Mr. Ulloa.]

In cases of violations under Chapter 2 of the Commonwealth Employment Act of 2007 (see 3 CMC § 4527), the Hearing Officer is authorized, but not required, to levy a maximum fine of \$2,000 for each violation. 3 CMC § 4528(f)(2). The amount of fines in this area is left to the discretion of the Hearing Officer. The standard in determining appropriate sanctions should be one of reasonableness and fairness, in accordance with the general principle, that "[t]he hearing officer is authorized to...[u]se [his] inherent powers ...to further the interests of justice and fairness in proceedings." Regs. at NMIAC §§ 80-20.1-485(c)(7) and (c)(14). The Hearing Officer examines the evidence to determine whether sanctions are appropriate and justified.

In this case, the evidence established that Employer committed three violations. First, it failed to post employer declarations with respect to 16 JVAs, more than half of which were cancelled by Employer when the cap for CW1 workers was reached for 2017. [NMIAC § 80-20.1-235(e).] Employer noted that it attempted to schedule job interviews with the responders to many JVAs, but no one showed up. Nevertheless, Employer admitted that it neglected to send "declarations" to each responder. The Hearing Officer finds that for this first charge of failure to

post declarations, Employer should be ordered to pay sanctions of \$2,000, with half suspended for a period of two years.

Second, Employer failed to make a good faith effort to employ U.S. citizens and permanent residents in violation of CNMI preference laws. [NMIAC § 80-20.1-235(d).] This violation was evidenced by Employer's admission that it cancelled 10 JVAs after it became known that the cap for the employment of CW1 workers in 2017 had been reached. The Hearing Officer finds that this violation should result in sanctions of \$2,000, with half of that amount suspended for a period of two years.

Third, Employer failed to give job preference to a particular U.S. citizen, Zaji Zajradhara, who applied for the Events and Marketing Coordinator position. [Regs. at NMIAC § 80-20.1-220.] Moreover, Employer unjustly rejected that qualified U.S. citizen (Zaji) for a job for which he applied, thus justifying an award of damages and sanctions. 3 CMC §§ 4528(f)(1)-(2). For this conduct, Employer should be ordered to pay \$1,000 in sanctions in addition to the \$7,400 damage award.

In conclusion, Employer, for its various violations of law, shall be ordered to pay total sanctions of \$5,000, with \$2,000 of that fine suspended for a period of two years. In addition, Employer shall be ordered to pay \$7,400 in damages to Mr. Zaji Zajradhara. Finally, the Denial of the Certificate of Good Standing shall be reversed, and a Certificate issued to Employer, as soon as Employer has fully paid the sanctions and damages, as ordered below.

Good cause having been shown, IT IS HEREBY ORDERED:

1. **Judgment:** Judgment is hereby entered against Respondent YWA Human Resource CNMI Corporation on the following charges: (1) failing to post employer declarations regarding 16 JVAs during 2016 [Regs. at NMIAC § 80-20.1-235(e)]; (2) failing to make a good faith effort to provide jobs to U.S. citizens and permanent residents [Regs. at NMIAC § 80-20.1-235(d)]; (3) failing to give preference in employment to a U.S. citizen for the position of Events and Marketing Coordinator [Regs. at NMIAC § 80-20.1-220]; and unjustly rejecting that qualified U.S. citizen for the job. 3 CMC § 4528(a). For these violations, Respondent shall be ordered to pay sanctions and damages, as set forth below.

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2. **Sanctions:** Respondent YWA Human Resource CNMI Corporation is hereby SANCTIONED a total of five thousand dollars (\$5,000) for its conduct; however, \$2,000 of the sanction shall be SUSPENDED for a period of TWO YEARS, then extinguished, provided that Respondent commits no violations of Labor regulations or statutes in that period. Respondent is ORDERED to pay the remaining \$3,000 in sanctions no later than **thirty (30) days** after the date of issuance of this Order. Proof of payment shall be submitted to the Hearing Office on or before the due date. 3 CMC §§ 4528(f)(2) and 4947(11).

3. **Damages:** Respondent YWA Human Resource CNMI Corporation is hereby ORDERED to pay damages to Zaji Zajradhara in the amount of seven thousand and four hundred dollars (**\$7,400**) to compensate Mr. Zajradhara for the wages he would have earned working as Events and Marketing Coordinator. [3 CMC §§ 4528(f)(2).] Respondent is ORDERED to pay these damages by cashier's check or postal money order, made payable to Zaji Zajradhara. Payments shall be delivered to the Hearing Office in two installments, as follows: \$3,400.00 due on or before June 15, 2017; and \$4,000.00 due on or before July 15, 2017.

4. **Posting Employer Declarations:** Respondent is ORDERED to post employer declarations to each online responder for jobs posted in the future by Employer in accordance with Regulations at NMIAC § 80-20.1-235(a). Respondent shall hire U.S. citizen and permanent resident job applicants when they are qualified to work.

5. **Reinstatement of Suspended Fine:** The obligations described above are continuing obligations. If Respondent fails to comply with the terms of this Order, or commits further labor violations, it shall be subject to a possible reinstatement of the suspended sanctions (\$2,000) plus additional monetary sanctions, after a due process hearing on this issue.

6. **Denial is reversed:** For the reasons stated above, the Department's Denial of a Certificate of Good Standing for Appellant YWA Human Resource CNMI Corporation is hereby REVERSED, provided that Appellant complies with all terms of this Order. The Department is instructed to issue the Certificate of Good Standing to Appellant as soon as Employer has paid \$3,000 in sanctions and the \$7,400 damage award.

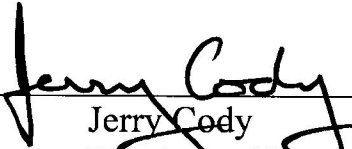
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[CAC No. 17-001-02; DC No. 17-001]

7. **Appeal:** Any person or party aggrieved by this Order may appeal, in writing, to the Secretary of Labor within **fifteen (15) days** of the date of issuance of this Order. 3 CMC §§ 4948(a) and 4528(g).

DATED: May 11, 2017


Jerry Cody
Hearing Officer