

**IN THE PROVINCIAL COURT OF ALBERTA
JUDICIAL DISTRICT OF CALGARY**

BETWEEN:

HER MAJESTY THE QUEEN

- and -

**JOHN LIPINSKI, ANGELA LIPINSKI,
CALVIN ARNOLD STEINHAUER
And KIH EW ENERGY SERVICES LTD.**

AGREED STATEMENT OF FACTS

Summary of Charges

1. This Agreed Statement of Facts is for the purpose of sentencing Kihew Energy Services Ltd., charged with the following in Information No. 110681160P1:
 - one count under s. 117 of the *Immigration and Refugee Protection Act*;


Background

2. Kihew Energy Services Ltd. (KIH EW) was incorporated in the Province of Alberta on June 9, 2004. Calvin Steinhaur (STEINHAUR) and John Lipinski (LIPINSKI) are the sole shareholders and directors with STEINHAUR being President and holding 51% of the issued shares and LIPINSKI being vice-president and holding 49% of the issued shares.
3. KIH EW placed ads to recruit European welders and machinists to come and work in Canada. The agency used in Poland by KIH EW was Szansa Employment Services (SZANSA).
4. The applicants were interviewed by SZANSA on behalf of KIH EW and were assisted with completing/translating all required documentation to English for \$100.00 for the purpose of coming to Canada.

5. Once the foreign workers were recruited by KIH EW, Paul Myshaniuk (MYSHANIUK), on behalf of Lakeland College, sent letters to Canada Immigration accepting the foreign workers as students. The foreign workers were allowed into Canada on student visas. KIH EW forwarded the sum of two-hundred fifteen thousand (\$215,000.00) dollars to Lakeland College.
6. The first group of foreign workers arrived in December 2005. In September of 2006 the foreign workers were informed by the CBSA that because they entered Canada on Student Visas they were not permitted to work in Canada.
7. All the foreign workers paid their own way to Canada and once arriving in Canada were met by KIH EW representatives.
8. KIH EW contracted the foreign workers to several businesses, charging them approximately \$24.00 per hour for the services of each foreign worker plus overtime. The companies paid KIH EW for the work provided and KIH EW, in turn, paid the foreign workers.
9. KIH EW paid the foreign workers between \$10.00 and \$12.00 per hour with no compensation for overtime. KIH EW did not make any deductions on their cheques such as CPP, EI etc. The foreign workers had a choice of paying \$100 per month for accommodations and \$100.00 per month for transportation to and from their worksite. KIH EW profited approximately \$20.00 per hour per worker, and more for the overtime rates paid by the various companies. KIH EW provided a vehicle for the use of the workers. On January 31, 2007, KIH EW remitted to Canada Revenue Agency all CPP, EI and federal and provincial withholding taxes respecting the foreign workers being the sum of \$141,927.76.
10. Only some of the foreign workers, by choice, attended a few classes of ESL at Lakeland College, however, none of the foreign workers ever attended the college for technical welding classes as indicated on their student visa.
11. Randy Gurlock (GURLOCK) Director for (Canada Immigration) CIC in Edmonton received information respecting the workers and as a result the workers were interviewed. The workers were interviewed by GURLOCK on September 30, 2006. They confirmed that they all believed they had come to Edmonton as workers, and did not believe they were intended to attend school on a full-time basis. None of them were aware that they were working in Canada illegally.
12. The workers were required to pass a welding test administered by the company, then they went to work. All of them were paid through KIH EW, first by cheque, then by direct deposit. The deduction for rent and transportation were made by KIH EW.

13. KIH EW, through its entry of a guilty plea, admits that it did not exercise reasonable diligence in determining whether a work permit was required and KIH EW admits the above stated facts for the purposes of tendering a guilty plea to contravening section 117 of the *Immigration and Refugee Protection Act* and for no other purpose.

Agreed to on the 27 day of September 2012 by:



Kent Brown
Counsel for the Director of the
Public Prosecution Service of Canada



Robert Davidson, Q.C.
Counsel for Kihew Energy Services Ltd.

IN THE PROVINCIAL COURT OF ALBERTA
CRIMINAL DIVISION

HER MAJESTY THE QUEEN

and

JOHN LIPINSKI, ANGELA LIPINSKI, CALVIN STEINHAUR,
AND KIHAW ENERGY SERVICES LTD.

BEFORE THE HONOURABLE)	ON THE 9 th DAY
JUDGE J. T. HENDERSON)	
AT EDMONTON, ALBERTA)	OF OCTOBER, 2012

ORDER PURSUANT TO
S. 125 OF THE *IMMIGRATION AND REFUGEE*
PROTECTION ACT AND S. 731 OF
THE *CRIMINAL CODE OF CANADA*

WHEREAS Kihaw Energy Services Ltd ("Kihaw") has entered a guilty plea to the following count:

That between the 31st day of July 2004 and the 21st day of December 2006, both dates inclusive, at or near Edmonton in the Province of Alberta, did knowingly organize, induce, aid or abet the coming into Canada of one or more persons, who was not in possession of a Visa, passport or other document required by the provisions of the Immigration and Refugee Protection Act, contrary to Section 117 of the Immigration and Refugee Protection Act.

AND WHEREAS the Crown and Defence Counsel have made a joint submission to this Honourable Court pursuant to section 125 of the *Immigration and Refugee Protection Act* and section 731 of the *Criminal Code of Canada*, for the following sentence project:

Lakeland College will receive \$215,000.00 to be applied, beginning in the 2013 academic year, to the following:

- i) For foreign trade persons to challenge the RED SEAL trade certificate and other similar trade certificates;
- ii) For the use in translation services to permit foreign trade persons to challenge the RED SEAL trade certificate and other similar trade certificates;
- iii) That the \$215,000.00 will be substantially expended during the course of 2 years beginning not later than the 2014 academic year;
- iv) That on the completion of the time period named above, or sooner if the money is expended earlier, Lakeland College will report to the Provincial Court of Alberta regarding the expenditure of the \$215,000.00, with copies to the Crown and to Defence Counsel for Kihew.


IT IS HEREBY ORDERED THAT pursuant to section 731 of the *Criminal Code of Canada*, Kihew will be placed on probation for a period of 1 month during which time Kihew will pay \$215,000.00 into Court, which funds will then subsequently be paid to Lakeland College for the purposes described above.

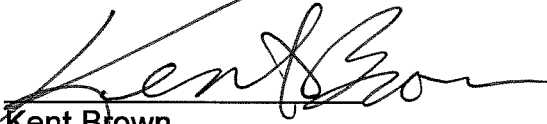
If for any reason Lakeland College is unable or unwilling to comply with this Order, Lakeland College will apply to the Court for a variation upon notice to the Crown and Defence Counsel.

DATED this ___ day of _____, 2012

The Honourable Judge J. T. Henderson
Provincial Court of Alberta

CONSENTED TO:


Robert H. Davidson Q.C.
Counsel for Kihew Energy Services Ltd.


Kent Brown
Counsel for the Director of the
Public Prosecution Service of Canada