

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

**JULIE A. SU**, Acting Secretary of )  
Labor, United States Department of )  
Labor, )

Plaintiff, )

v. )

**FOREST HOME AVE CHICKEN )  
PALACE, LLC, d/b/a CHICKEN )  
PALACE FOREST HOME; )  
NATIONAL AVE CHICKEN )  
PALACE, LLC, d/b/a CHICKEN )  
PALACE NATIONAL AVE; )  
CHICKEN PALACE OF KENOSHA, )  
LLC, d/b/a CHICKEN PALACE )  
KENOSHA; CHICKEN PALACE OF )  
WAUKESHA, LLC, d/b/a CHICKEN )  
PALACE WAUKESHA; and )  
VALDEMAR ESCOBAR, )**

Case No.: 2:24-cv-1124

Defendants. )

**CONSENT JUDGMENT AND ORDER**

Plaintiff, **JULIE A. SU**, Acting Secretary of Labor, United States Department of Labor, has filed a complaint under the Fair Labor Standards Act of 1938 as amended (29 U.S.C. § 201 *et seq.*) (“FLSA” or “the Act”), and Defendants Forest Home Ave Chicken Palace, LLC, d/b/a Chicken Palace Forest Home (“Chicken Palace Forest Home”); National Ave Chicken Palace, LLC, d/b/a Chicken Palace National Ave (“Chicken Palace National Ave”); Chicken Palace of Kenosha, d/b/a Chicken Palace Kenosha (“Chicken Palace Kenosha”); Chicken Palace of Waukesha, d/b/a Chicken Palace Waukesha (“Chicken Palace Waukesha”); and

Valdemar Escobar (collectively, “Defendants”), have appeared by counsel, waive formal service of process of the Summons and Complaint, waives their Answer and any defenses they may have, and agrees to the entry of this Consent Judgment and Order (“Consent Judgment”) without contest.

Defendants admit and the Court finds Defendants are engaged in related activities performed through unified operation or common control for a common business purpose and are an “enterprise” under 29 U.S.C. § 203(r) of the FLSA.

Defendants admit and the Court finds Defendants are an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 203(1)(A) of the FLSA.

Defendants admit and the Court finds the Defendants are employers as defined in 29 U.S.C. § 203(d) of the FLSA.

Now, therefore, upon motion for the Acting Secretary, and for cause shown:

IT IS ORDERED, ADJUDGED, AND DECREED, pursuant to section 17 of the FLSA, that Defendants, their officers, agents, servants, and all persons acting or claiming to act on their behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 6, 7, 11(c), 15(a)(2), 15(a)(3), and 15(a)(5) of the FLSA, in any of the following manners:

1. Defendants shall not, contrary to 29 U.S.C. §§ 206, and 215(a)(2), pay to any of their employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the

FLSA, wages at rates less than \$7.25 an hour, or any rate subsequently made applicable by amendment to the FLSA.

a. For purposes of Paragraph 1, prohibited actions include, without limitation: Failing to pay kitchen staff—or any other employees—wages sufficient to cover the minimum wage rate for all hours up to forty in a workweeks.

2. Defendants shall not, contrary to 29 U.S.C. §§ 207 and 215(a)(2), employ any of their employees including, but not limited to, any of their employees working at Chicken Palace Forest Home, Chicken Palace National Ave, Chicken Palace Waukesha, and Chicken Palace Kenosha, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, in any workweek when they are engaged in commerce or employed in an enterprise engaged in commerce, within the meaning of the FLSA, for workweeks longer than forty hours, unless said employees receive compensation for their employment in excess of forty hours at a rate equivalent to one and one-half times the regular rate at which they are employed.

a. For purposes of Paragraph 2, prohibited actions include, without limitation: Paying employees straight-time pay in cash for hours over forty in a workweek.

3. Defendants shall make, keep, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them including, but not limited to, any of their employees working at Chicken Palace Forest Home, Chicken Palace National Ave,

Chicken Palace Waukesha, and Chicken Palace Kenosha, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, as prescribed by the Regulations issued pursuant to 29 U.S.C. §§ 211(c) and 215(a)(5) and found at 29 C.F.R. Part 516. Defendants shall make such records available at all reasonable times to representatives of the Plaintiff.

a. Defendants shall provide each non-exempt employee on each pay date with a pay stub that accurately reflects the non-exempt employees' full name, pay period dates, total hours paid, regular rate of pay, straight time hours worked, overtime hours worked, gross wages, net wages, and all withholding and deductions taken. Defendants shall maintain records all pay and deductions.

4. Pursuant to 29 U.S.C. § 215(a)(3), Defendants shall not discharge or take any retaliatory action against any of their current or former employees because the current or former employee engages in any of the following activities:

a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy, or practice of the Defendants or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the FLSA, or a rule or regulation promulgated pursuant to the FLSA;

b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the FLSA, or a rule or regulation promulgated pursuant to the

FLSA, by the Defendants or another employer with whom there is a business relationship; or

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the FLSA, or a rule or regulation promulgated pursuant to the FLSA.

5. Defendants shall provide their current and all new managers and supervisors (for a period of two years beginning on the date this Consent Judgment is entered) with a copy of the U.S. Department of Labor, Wage and Hour Division's Handy Reference Guide to the Fair Labor Standards Act,<sup>1</sup> in a language the employee is fluent.

6. Defendants shall provide its current employees and all new employees (for a period of two years beginning on the date this Consent Judgment is entered) copies of the following, in a language in which the employee is fluent:

a. Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA)<sup>2</sup>;

b. *Employee Rights Under the Fair Labor Standards Act*<sup>3</sup>; and

c. Fact Sheet #23: Overtime Pay Requirements of the FLSA.<sup>4</sup>

7. Defendants shall install, use, and maintain an electronic timekeeping system in which non-exempt employees' hours worked are accurately recorded. The

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<sup>1</sup> Available at <https://www.dol.gov/agencies/whd/compliance-assistance/handy-reference-guide-flsa>.

<sup>2</sup> Available at <https://www.dol.gov/agencies/whd/fact-sheets/22-flsa-hours-worked>.

<sup>3</sup> Available at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/minwagep.pdf>.

<sup>4</sup> Available at <https://www.dol.gov/agencies/whd/fact-sheets/23-flsa-overtime-pay>.

electronic system shall be put in place within 30 days of the entry of the Consent Judgment. The electronic system for non-exempt employees shall be such that hours are recorded contemporaneously, hours may not be handwritten, and any retroactive changes are reflected in the electronic system along with the original timestamp.

FURTHER, JUDGMENT IS HEREBY ENTERED, pursuant to section 16(c) of the Act, in favor of the Acting Secretary and against Defendants in the total amount of \$452,140.66.

8. The Acting Secretary shall recover from Defendants the sum of \$221,070.33 in unpaid minimum wage and overtime compensation covering the period from March 8, 2021, to March 7, 2023, for Defendants' current and former employees whose names are listed in the attached Exhibit A, and the additional sum of \$221,070.33 in liquidated damages.

9. Defendants also agree to pay the Acting Secretary \$10,000.00 in assessed civil money penalties (CMPs) related to its violations of the Act pursuant to 29 U.S.C. § 216(e).

a. Within 30 days of Defendants' execution of this Consent Judgment, Defendants shall deliver payment in the amount of \$452,140.66 by ACH transfer or digital wallet at <https://www.pay.gov/public/form/start/77692637> or [www.pay.gov](http://www.pay.gov) and searching "WHD Back Wage Payment – Midwest Region".

b. Defendants shall also furnish to the Secretary the full name, last-known address, last-known phone number, and social security number for each employee named in Exhibit A.

c. Upon receipt of full payment from Defendants, representatives of the Acting Secretary shall distribute such amounts, less appropriate deductions for federal income withholding taxes and the employee's share of the social security (F.I.C.A.) tax, to the employees or their legal representative as their interests may appear, in accordance with the provisions of section 16(c) of the FLSA. Defendants remain responsible for the employer's share of F.I.C.A. arising from or related to the back wages distributed by the Acting Secretary.

d. Neither Defendants nor anyone on their behalf shall directly or indirectly solicit or accept the return of any sums paid under this Consent Judgment.

e. If an individual named on Exhibit A refuses any sums paid under this Consent Judgment by attempting to return them to Defendants or to anyone on Defendants' behalf, Defendants shall refuse to accept them and shall ensure that all such sums be immediately paid to the Acting Secretary for deposit as above. Defendants shall have no further obligations with respect to such monies.

f. Any monies not disbursed by the Department of Labor after three years from the date of payment by Employers, because of the inability to locate the proper persons or because of their refusal to accept payment,

shall be deposited into the Treasury of the United States as miscellaneous receipts, pursuant to section 16(c) of the FLSA.

10. The provisions of this Consent Judgment shall not in any way affect any legal right of any individual not named on Exhibit A, nor shall the provisions in any way affect any legal right of any individual named on Exhibit A to file any action against Defendants for any violations alleged to have occurred outside the relevant period.

11. By entering into this Consent Judgment, Plaintiff does not waive the right to conduct future investigations of Defendants under the provisions of the FLSA and to take appropriate enforcement action, including assessment of civil money penalties pursuant to 29 U.S.C. § 216(e), with respect to any violations disclosed by such investigations.

12. It is FURTHER ORDERED that each party shall bear their own costs, fees and other expenses incurred by such party in connection with any stage of this proceeding, but not limited to, attorney fees which may be available under the Equal Access to Justice Act, as amended.

13. The Court shall retain jurisdiction over this matter only for the purposes of enforcing this Consent Judgment.

**SO ORDERED.**

DATED 10/21/2024

/s/ Lynn Adelman

United States District Judge