

I

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, pursuant to section 17 of the Act, that the Defendants, their officers, agents, servants, employees, successors, assigns and all persons in active concert or participation with them be, and they hereby are, permanently enjoined and restrained from violating the provisions of the Act, in any of the following manners:

(a) Defendants shall not, contrary to sections 6 and 15(a)(2) of the Act, pay any of their employees who in any workweek are engaged in commerce or in the production of goods for commerce or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at a rate less than the applicable minimum wage of \$7.25 under the Act (or at a rate less than such other applicable minimum rate as may hereafter be established by amendment to the Act).

(b) Defendants shall not, contrary to sections 7 and 15(a)(2) of the Act, employ any of their employees who in any workweek are engaged in commerce or the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty hours, unless such employee receives compensation for his employment in excess of forty hours at a rate not less than one and one-half times the regular rate at which he is employed.

(c) Defendants shall not fail to make, keep, and preserve records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the regulations issued, and from time to time amended, pursuant to section 11(c) of the Act and found in 29 C.F.R. Part 516.

(d) Defendants shall not request, solicit, suggest, or coerce, directly, or indirectly, any employee to return or to offer to return to the Defendants or to someone else for the Defendants, any money in the form of cash, check, or any other form, for wages previously due or to become due in the future to said employee under the provisions of this Judgment or the Act; nor shall Defendants accept, or receive from any employee, either directly or indirectly, any money in the form of cash, check, or any other form, for wages heretofore or hereafter paid to said employee under the provisions of this Judgment or the Act; nor shall Defendants discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against any such employee because such employee has received or retained money due to him from the Defendants under the provisions of this Judgment or the Act.

II

IT IS FURTHER ORDERED, pursuant to the parties' agreement, that Defendants shall do the following:

(a) On or before March 31, 2016, Defendants shall hold a mandatory meeting (or meetings), at which all current employees shall be verbally informed (in English and/or Spanish, as appropriate) of the following:

(1) That the United States Department of Labor conducted an investigation of Defendants.

(2) That the investigation found that Defendants had not paid their employees in compliance with the FLSA's minimum wage and overtime provisions.

(3) That pursuant to a settlement with the Department of Labor, Defendants have agreed to pay back wages to their employees and penalties to the Department of Labor.

(b) All current employees shall be provided a paper copy of this Consent Judgment, including all exhibits.¹

(c) Until February 28, 2017, all newly-hired employees, prior to starting work, shall be provided a paper copy of this Consent Judgment, including all exhibits.

(d) This Consent Judgment, including all exhibits, shall be posted at all of Defendants' establishments, at a location where employee notices are customarily posted, and shall remain posted until January 31, 2018. In addition, Defendants shall comply with the posting requirements contained in 29 C.F.R. § 516.4.

(e) To the extent they are not already doing so, on or before March 31, 2016, Defendants shall install and begin utilizing a timeclock or computerized timekeeping system for employees to clock-in and clock-out. All employees shall be required to clock-in and clock-out, and Defendants shall preserve such records as required by the FLSA.

(f) To the extent they are not already doing so, on or before March 31, 2016, Defendants shall begin maintaining payroll records that show all compensation paid to Defendants' employees. Following each pay period, Defendants shall issue each of their employees a paystub that accurately shows that employee's regular rate of pay; straight time hours worked; overtime hours worked; tips received, tip credit taken, gross wages, all deductions, and net wages.

(g) On or before March 31, 2016, and at least annually thereafter, Defendants shall provide 30-minutes of training on the FLSA to all managers and supervisors. Such training shall include the material covered in the fact sheets contained in Exhibits B and C of this Consent

¹ When providing a copy of this Consent Judgment to employees, and when posting copies of the Consent Judgment, Defendants may omit Exhibit A and may redact the specific amount of back wages paid pursuant to the Consent Judgment (*i.e.*, "\$190,000").

Judgment. Defendants shall also provide such training to all newly-hired or newly-promoted managers or supervisors prior to those employees beginning their managerial/supervisory duties,

III

FURTHER, JUDGMENT IS HEREBY ENTERED, pursuant to Section 16(c) of the Act, in favor of the Plaintiff and against the Defendants in the total amount of \$190,000, as follows:

(a) On or before March 31, 2016, Defendants shall pay to the Plaintiff the sum of \$190,000, which represents the unpaid minimum wage and overtime compensation hereby found to be due, for the period November 28, 2012 to November 25, 2014 (as to Defendants' Parkersburg, WV establishment); December 12, 2012 to December 9, 2014 (as to Defendants' Marietta, OH establishment); and March 19, 2013 to March 10, 2015 (as to Defendants' Moundsville, WV establishment), to the present and former employees named in Exhibit A, attached hereto and made a part hereof in the amounts set forth therein.

(b) The payment shall be made by Defendants sending three certified checks or cashier's checks made payable to "U.S. DOL/Wage and Hour Division." Each check shall be in the amount set forth below, shall reference the case ID set forth below, and shall be sent to the address set forth below:

<u>Amount</u>	<u>Case ID</u>	<u>Address</u>
\$54,623.87 (Marietta)	1745326	U.S. Dept. of Labor, Wage & Hour Division 200 North High Street, Room 646 Columbus, Ohio 43215
\$ 93,525.98 (Parkersburg)	1745925	U.S. Dept. of Labor, Wage & Hour Division Federal Center 500 Quarrier Street, Room 120 Charleston, WV 25301
\$41,850.15 (Moundsville)	1750977	U.S. Dept. of Labor, Wage & Hour Division Federal Center 500 Quarrier Street, Room 120 Charleston, WV 25301

(c) Plaintiff shall distribute the amounts referred to herein, or the proceeds thereof, to the persons named in Exhibit A (attached hereto and made a part hereof), in the amounts so indicated, less applicable deductions for employees' share of FICA, Medicare and withholding taxes, (Defendants shall be responsible for the employer's share of FICA, Medicare and other applicable taxes and any other necessary payments to the appropriate federal and state revenue authorities for the employees listed on Exhibit A attached hereto) or to their estates, if that be necessary, and any amounts of unpaid minimum wage, or overtime compensation not so paid within a period of three (3) years from the date of receipt thereof shall, pursuant to section 16(c) of the Act, be covered into the Treasury of the United States as miscellaneous receipts.

(d) Defendants shall provide Plaintiff with employees' contact information, as requested, to assist Plaintiff in locating employees.

IV

If Defendants fail to make any payment referenced hereinabove within fifteen days from the date it is due, as required by this Court under this Judgment, the entire outstanding amount of unpaid back wages, together with accrued interest shall be immediately due and owing and shall be subject to the assessment of such interest and costs as required by the Debt Collection Improvement Act of 1996 (Public Law 104-134) published by the Secretary of the Treasury in the Federal Register.

V

Each party shall bear its/his/their own fees and other expenses incurred by such party in connection with any stage of this proceeding to date with no costs and expenses, including, but not limited to, any and all costs and expenses referenced under the Equal Access to Justice Act, as Amended.

IT IS SO ORDERED.

Dated this 22nd day of March, 2016.

/s/ GREGORY L. FROST
GREGORY L. FROST
United States District Judge

For Defendants, Tampico Mexican Restaurant, Inc.; Tampico, LLC; Acapulco Mexican Restaurant, Inc.; and Luis Salas:

For Plaintiff, Thomas E. Perez, Secretary of Labor:

/s/ LAURA M. JURCEVICH
LAURA M. JURCEVICH

/s/ MATTHEW M. SCHEFF
MATTHEW M. SCHEFF
Trial Attorney

Dated: 3/8/16

Dated: 3/21/16

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/s/ LUIS SALAS
LUIS SALAS, individually and on behalf of
Tampico Mexican Restaurant, Inc.; Tampico,
LLC; Acapulco Mexican Restaurant, Inc.

OF COUNSEL:
M. PATRICIA SMITH
Solicitor of Labor

Dated: 3/8/16

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