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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION**

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| THOMAS E. PEREZ, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR, PLAINTIFF, v. PARAGON CONTRACTORS CORP. and BRIAN JESSOP, individually DEFENDANTS. | Civil Action No. 2:06-cv-00700 TC MOTION FOR ORDER TO SHOW CAUSE Judge Tena Campbell |
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I. STATEMENT OF PRECISE RELIEF SOUGHT

Plaintiff, Thomas E. Perez, Secretary of Labor, United States Department of Labor, respectfully moves this Court for an order requiring Defendants Paragon Contractors

Corporation (“Paragon”) and Brian Jessop (“Jessop”), individually, to appear and show cause why they should not be held in civil contempt for failing to abide by the Consent Judgment that was entered as an Order of this Court on November 29, 2007. (Dkt. Entry 26.)

Specifically during at least 2012, Defendants repeatedly and openly violated the requirements of the Consent Judgment and the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA” or the “Act”), by employing minors to engage in work on their behalf in activities related to the harvesting of pecans. These actions violated Defendants’ responsibilities under the Consent Judgment that included injunctive relief to refrain from violating the FLSA by employing minors.

Defendants’ civil contempt of the Court’s Order warrants an order compelling them to appear before this Court to show why they should not be held in contempt. Plaintiff also respectfully requests that upon a finding of contempt, that the Court (1) order Defendants to pay unpaid back wages to certain of their current or former employees; (2) order Defendants to abide by the enhanced compliance terms set forth below; (3) adopt the factual findings set forth below as a remedy; and (4) enter an amended permanent injunction against Defendants.

II. STATEMENT OF FACTS

Plaintiff, Thomas E. Perez, is the duly appointed Secretary of Labor, United States Department of Labor, and is charged with the administration and enforcement of the minimum wage, overtime pay, record keeping, and child labor requirements of the FLSA. Thomas E. Perez, Secretary of Labor, is authorized to bring this Motion for prosecution for civil contempt of Court.

A. Previous Injunction

The Wage and Hour Division of the United States Department of Labor Salt Lake City District Office (“Wage Hour”) investigated Paragon in 2006 upon receiving a complaint of child labor. Paragon, a company located in Hildale, Utah, is primarily engaged in construction services. See Ex. A, Affidavit of Joseph Doolin (“Doolin Aff.”) ¶ 4. Jessop is the sole owner, manager, and President of Paragon. Id. Child labor violations were confirmed and the Secretary of Labor filed an action in this Court, along with a Motion for Preliminary Injunction, on August 23, 2006. (Dkt. Entries 1 and 2.) The parties reached an agreement resolving the Secretary’s claims, set out in a Consent Judgment that was filed with the Court. On November 29, 2007, this Court entered the Consent Judgment as an Order of the Court. (Dkt. Entry 26.)

In relevant part, the Consent Judgment provided that Defendants pay a \$5,280.00 civil money penalty and permanently enjoined and restrained Paragon, Jessop, and others from violating the provisions of Sections 12(c) and 15(a)(4) of the FLSA as follows:

Defendants shall not, contrary to Sections 12(c) and 15(a)(4) of the FLSA, employ, suffer or permit minors to work in commerce or in the production of goods for commerce, or in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the FLSA under conditions constituting oppressive child labor as defined in § 3(l) of the FLSA, 29 U.S.C. § 203(l), and in occupations therein declared to be hazardous as defined in the regulations found at 29 C.F.R. Part 570 (Subparts C and E).

B. Conduct Violating Injunction

In December 2012, CNN aired a news report alleging that hundreds of children from the Fundamentalist Church of Jesus Christ of Latter Day Saints (“FLDS Church”) were working at the Southern Utah Pecan Ranch (“SUPR”) in Hurricane, Utah during school hours. Doolin Aff. ¶ 5. The footage depicts a large number of very young children working on the farm. Id. As a result of this report, Wage Hour opened an investigation into the allegations of child labor. Id.

Early in the investigation, Wage Hour learned that Paragon managed and operated SUPR at the time CNN took the video footage, and has managed and operated the pecan harvest and property at SUPR, per a contract between Paragon and SUPR, on a year-round basis since at least 2008. *Id.* at ¶¶ 6, 9. That contract provides that Paragon would “act as the manager and operator of the pecan groves.” *Id.* at ¶ 9 and Ex. 2. Wage Hour also learned that Paragon employed Dale Barlow (“Barlow”) to manage operations on the SUPR property during the 2011 and 2012 pecan harvests. *Id.* at ¶ 10.

During Wage Hour’s child labor investigation between 2013 and 2015, Paragon, Jessop, Barlow, and other individuals, as well as the FLDS Church, made it extremely difficult to obtain information regarding the identity of the children that worked during the pecan harvest, as well as their ages and hours worked. As a result, the Secretary had to initiate numerous administrative subpoena enforcement actions against Defendants and others. A summary of this protracted and complicated subpoena enforcement litigation can be found in the Affidavit of Joseph Doolin, the Wage Hour District Director, Ex. A and in the documents filed in the action.¹

As part of Wage Hour’s investigation, it subpoenaed the testimony of Brian Jessop. Jessop confirmed that beginning in 2011, Paragon hired Dale Barlow to manage the pecan harvest at SUPR. Doolin Aff. ¶ 10. He also explained that under the contract between Paragon and SUPR, SUPR owns and is responsible for the sale of all of the nuts collected by Paragon and that 70% of the gross proceeds from such sale are paid to Paragon, with the remaining 30%

¹ The subpoena enforcement actions were consolidated in the case of Perez v. Paragon Contractors Corp., Brian Jessop, Dale Barlow, Keith Dutson, Vergel Steed, Nephi Jeffs, Lyle Jeffs and Corporation of the Presiding Bishop of the Fundamental Church of the Jesus Christ of Latter-Day Saints, Case No. 2:13cv00281-DS.

paid to SUPR. Id. at ¶ 12. Although Jessop originally claimed to have no knowledge regarding what happened to the “ground nuts,” he eventually admitted he was aware of FLDS families entering the property and collecting the ground nuts and that this practice had taken place while Paragon managed the contract with SUPR.² Id. at ¶ 13.

Wage Hour also subpoenaed the testimony of Barlow. Barlow testified that he facilitated and organized between 200-300 school age children and their parents entering SUPR to pick the “ground nuts” on the ranch property in 2008, 2009, and 2010. Doolin Aff. ¶ 11. In 2011, up to 600 school age children and their parents entered SUPR to pick up the “ground nuts;” and in 2012, up to 1,400 individuals were present to do the work. Id. Barlow referred to these individuals as “my ladies, my family, my girls” and as “my friends,” yet refused to provide any of their names, first or last, ages, or contact information. Id. Despite the Secretary prevailing in a subpoena enforcement action against Barlow seeking to compel answers to these questions, Barlow never provided the names or ages of the minor children working at SUPR during the pecan harvest. Id. at ¶ 18. Barlow did confirm that the FLDS families are not paid for their services. Id. at ¶ 12.

Based on their testimony, both Jessop and Barlow initially led Wage Hour to believe that Paragon harvested the “tree nuts” using a mechanized process; and only after Paragon’s work

² Wage Hour’s investigation has revealed that Paragon and Jessop are closely affiliated with the FLDS Church. Paragon, through Jessop, has been a major contributor of significant FLDS building and construction projects over many years; Paragon’s business office is on property owned by the FLDS Church; and Paragon only employs FLDS church members who are in good standing. Doolin Aff. ¶ 14. Wage Hour also has reason to believe that Jessop is in charge of FLDS church security, which is a very important role in the FLDS community. Ex. B, Declaration of Alyssa Bistline ¶ 15.

was complete did the FLDS families and their children enter the property to harvest the “ground nuts,” i.e. the nuts that fall off the trees during the mechanized process, by hand. However, as discussed below, Plaintiff has evidence that contradicts this claim and establishes instead that the FLDS Church provided labor, including child labor, at SUPR on a year-round basis before, during, and after the harvest, and performed all duties related to Paragon’s contract with SUPR. Ultimately, all of the pecans that were harvested by machine and by hand by the FLDS members were co-mingled and prepared for interstate commerce.

As part of its investigation, Wage Hour obtained testimony from Alyssa Bistline (“Bistline”), a former member of the FLDS Church. Bistline is the step-daughter of James Jessop, the Vice President of Paragon and brother of Brian Jessop. See Ex. B, Declaration of Alyssa Bistline (“Bistline Decl.”) ¶ 9. She worked for Paragon from 2009 to 2010 doing office work. Id. She also personally worked at SUPR over a period of five years, including a short period of time during the 2012 harvest. Id. at ¶ 3.

By virtue of her position with Paragon, Bistline has direct knowledge that Paragon maintained the contract with SUPR and that Barlow organized and supervised the day-to-day activities at SUPR. Id. at ¶ 10. Barlow completed paperwork at Paragon’s office and kept Jessop informed of the ongoing progress made at the ranch. Id. Barlow also returned the “sign-in sheets” that children had to sign for work performed at SUPR to Paragon’s office. Id. at ¶ 11. In 2009, Bistline filed checks for the work at SUPR that were deposited into Paragon’s business account. Id. at ¶ 12.

Beginning when she was 15 years old, Bistline worked at SUPR in the “sorting shed,” sorting, hulling, and bagging the pecans. Id. at ¶ 3. She would work from 7:00 or 8:00 a.m.

until around 10:00 p.m., and stated that during the summer of 2012, there were five to ten other girls between the ages of 12 and 20 working with her. Id. at ¶ 4. According to Bistline, Lyle Jeffs (“Jeffs”), the bishop of the FLDS church during the relevant time period, personally directed crews to work at SUPR, including boys to help with the tree shaking, which involved driving tractors. Id. at ¶ 5. Bistline stated that during the summer months in 2012, there were a couple of boys working at SUPR younger than 15 who were driving the forklifts and sometimes the tractors. Id. She also confirmed that when it was time to harvest the nuts from the ground, the families would work for about two months, six days per week, from around 8:00 a.m. to 5:00 p.m. Id. at ¶ 6. When Bistline participated in the ground nut harvest at SUPR during 2012, she estimates there was between 300 and 3,000 people working each day, the majority of which were children between the ages of eight and fourteen, despite the fact that the work was done during school days. Id. at ¶ 8. Bistline also knew that several of Jessop’s children worked at SUPR and was able to provide the names and ages of several of them, and she identified two of Jessop’s daughters from Wage Hour’s photographs of the child labor activities at SUPR. Id. at ¶ 14.

Bistline also confirmed that the FLDS members were not paid for their work at SUPR. Id. at ¶ 8. Rather, although she has no specific knowledge regarding the proceeds from the sale of the pecans, she generally understands that all of the money went to the FLDS Church. Id. at ¶ 12.

During its investigation, Wage Hour also obtained information from Dwayne and Sheryl Barlow and their children (“the Barlows”), confirming that Paragon and Jessop are in violation of the permanent injunction. The Barlows are former members of the FLDS Church

and six of their children participated in the 2012 pecan harvest at SUPR, as well as a niece and nephew who currently reside with them. See Ex. C, Declaration of Sheryl Barlow (“Sheryl Barlow Decl.”) ¶¶ 3-4. All of the children currently range in age from nine to 18, making them six to 15 years old at the time of the 2012 harvest. See Ex. D, Declaration of Winne Barlow (“Winnie Barlow Decl.”) ¶ 2; Ex. E, Declaration of Phoebe Barlow (“Phoebe Barlow Decl.”) ¶ 2; Ex. F, Declaration of Austin Barlow (“Austin Barlow Decl.”) ¶ 2; Ex. G, Declaration of Nathan Barlow (“Nathan Barlow Decl.”) ¶ 2; Ex. H, Declaration of Martha Barlow (“Martha Barlow Decl.”) ¶ 2; Ex. I, Declaration of Thomas Barlow (“Thomas Barlow Decl.”) ¶ 2. The children were not compensated for their work. Winnie Barlow Decl. ¶ 5; Phoebe Barlow Decl. ¶ 5; Austin Barlow Decl. ¶ 5; Nathan Barlow Decl. ¶ 5; Martha Barlow Decl. ¶ 5; Thomas Barlow Decl. ¶ 5.

The Barlows confirmed that Dale Barlow maintained the pecan fields on a year-round basis. Sheryl Barlow Decl. ¶¶ 5, 7. Austin Barlow, who was 15 years old at the time, helped Dale Barlow (along with other teenage boys) with tree shaking and transportation during the 2012 harvest at SUPR, which included driving a tractor. Austin Barlow Decl. ¶ 6. He was not compensated for his work. Id. He also worked at SUPR the spring following the 2012 harvest, trimming the trees, which included operating chain saws and wood chippers, and again was not paid for the work. Id. at ¶ 11. Thomas Barlow also worked on the tree trimming in February or March 2013, when he was ten years old, without being paid and noted every day he was there, there were around 50 people working from age 12 to 30. Thomas Barlow Decl. ¶ 7.

The Barlows are also aware that all FLDS Church affiliated homeschools were shut down during the pecan harvest, which lasted up to four weeks over November and December;

and the children worked on average between six and eight hours per day. Sheryl Barlow Decl. ¶ 8; Winnie Barlow Decl. ¶¶ 7-8 (worked four weeks at SUPR in 2012, Monday to Saturday, 8:00 a.m. until 5:00 p.m. or later); Phoebe Barlow Decl. ¶ 6 (worked three weeks at SUPR in 2012 from 8:00 a.m. until 5:00 p.m.); Nathan Barlow Decl. ¶ 6 (worked at SUPR four days from 8:00 a.m. through 3:00 p.m.); Martha Barlow Decl. ¶ 6 (worked at SUPR from 8:00 a.m. through 5:00 p.m.); Thomas Barlow Decl. ¶ 6 (worked at least a month and a half during 2012 harvest, six days per week, seven or eight hours per day). Smaller crews worked beyond the harvest to sort and hull the nuts and do cleanup of the property. For example Winne Barlow helped with the nut sorting when she was 12 years old. Winnie Barlow Decl. ¶¶ 8, 11.

The Barlows estimate the overall numbers of Church members who participated in the 2012 harvest ranged from 300-500 on any given day over the course of a four-week period, with up to 2,500 or more on a few occasions. Phoebe Barlow Decl. ¶ 7; Austin Barlow Decl. ¶ 8. They estimate that over 80% of the Church members who participated were under the age of 16; and they estimate that 50% of those kids were under the age of 12. Sheryl Barlow Decl. ¶ 9; Austin Barlow Decl. ¶ 8.

During its investigation, Wage Hour also engaged in subpoena enforcement proceedings against Jeffs and the FLDS Church. After significant litigation, on April 8, 2015, Judge Sam issued an Order holding Jeffs in contempt and entered 23 factual findings, including the following, which are relevant to Paragon's violation of the Consent Judgment:

7. The FLDS Church, through Lyle Jeffs, Dale Barlow, Brian Jessop, and Paragon Contractors Corporation ("Paragon"), coordinated efforts to supply the labor and material necessary to satisfy Paragon's contractual obligations to manage and operate the pecan harvest at SUPR in 2012.

8. The FLDS Church, through Lyle Jeffs, Dale Barlow, Brian Jessop, and Paragon, provided access to SUPR, as well as all instruction, direction, and supervision, for members of the FLDS Church to participate in the pecan harvest each year, including the 2012 harvest.

12. Dale Barlow is employed by the FLDS Church and Paragon to maintain the pecan orchard on a year round basis and control the day-to-day operations at SUPR on behalf of the FLDS Church and Paragon.

13. In 2012, the FLDS Church, through Lyle Jeffs, Dale Barlow, Brian Jessop, and Paragon, provided security and the labor and supplies necessary to maintain the pecan trees and take care of the operational maintenance of equipment at SUPR.

19. During the 2012 pecan harvest at SUPR, the FLDS Church, Lyle Jeffs, Dale Barlow, Brian Jessop, and Paragon allowed at least 1,400 school age children and their parents to enter SUPR and suffered or permitted them to work on the pecan harvest. Of these individuals, at least 125 of them were under the age of 12; at least 50 of them were between the ages of 12-13; and at least 25 of them were between the ages of 14-15.

20. Together, the FLDS Church, Lyle Jeffs, Dale Barlow, Brian Jessop, and Paragon are an enterprise engaged in commerce or in the production for goods for commerce.

Doolin Aff. ¶ 20 and Ex. 10.

Over the course of the investigation, Wage Hour determined that Paragon, through Jessop, Barlow, and the FLDS Church, organized and facilitated the child labor activities that took place at SUPR during the 2012 and prior harvests in violation of the child labor provisions of the FLSA. Paragon and Jessop's involvement in the child labor activities violates the permanent injunction that enjoins them from employing, suffering or permitting minors to work in the production of goods for commerce under Section 12(c) of the FLSA. As such, Paragon and Jessop are in contempt of the 2007 permanent injunction.

III. LEGAL STANDARD

In order to prove contempt of a court order, a plaintiff must establish by clear and convincing evidence, that (1) a valid court order existed, (2) the defendants had knowledge of the

order, and (3) the defendants disobeyed the order. Reliance Ins. Co. v. Mast. Constr. Co., 159 F.3d 1311, 1315 (10th Cir. 1998); see also F.T.C. v. Kuykendall, 371 F.3d 745, 756 (10th Cir. 2004).

The Court has wide discretion in fashioning an equitable remedy for civil contempt. See, e.g., Rodriguez v. IBP, Inc., 243 F.3d 1221, 1231 (10th Cir. 2001) (“A district court may exercise broad discretion in using its contempt power to assure compliance with its orders.”). The measure of the court’s power in civil contempt proceedings is determined by the requirements of full remedial relief. McComb v. Jacksonville Paper Co., 336 U.S. 187, 193 (1949). “Sanctions in civil contempt proceedings may be employed for either or both of two purposes: to coerce the defendant into compliance with the court’s order, and to compensate the complainant for losses sustained.” Local 28 of Sheet Metal Workers’ Int’l Ass’n v. EEOC, 478 U.S. 421, 443 (1986). When the public interest is involved, the court’s equitable powers assume an even broader and more flexible character. AT&T Broadband v. Tech Commc’ns, Inc., 381 F.3d 1309, 1316 (11th Cir. 2014).

IV. ARGUMENT

Because all of the required elements to prove contempt of a court order can be established by Plaintiff, as explained below, Defendants should be compelled to appear and show cause why they should not be held in contempt for failing to comply with the Court’s permanent injunction.

A. Defendants had Knowledge of the Valid Consent Judgment

Defendants Paragon and Jessop had knowledge that a consent judgment had been entered by the Court and that they were bound by the permanent injunction contained in the judgment. Paragon and Jessop, individually, were named as defendants in the original action. Although

their attorney signed the 2007 permanent injunction, Jessop confirmed during his subpoena testimony during Wage Hour's investigation that he and Paragon had knowledge of the judgment. See Ex. J, excerpt of January 31, 2013 Transcript of Brian Jessop at 8:22-9:18. The Consent Judgment, entered by this Court, specifically prohibits the Defendants from violating the child labor provisions of the FLSA. The Consent Judgment is clear and unambiguous, and Defendants had knowledge of the Consent Judgment and its terms.

B. The Secretary has Shown by Clear and Convincing Evidence that Defendants Violated the Consent Judgment by Failing to Comply with the Child Labor Provisions of the Act

The evidence is clear and convincing that Paragon and Jessop disobeyed the terms of the Court's 2007 permanent injunction. The injunction prohibits Paragon and Jessop from employing, suffering, or permitting minors to work in the production of goods for commerce.

Here, as described in detail above, Paragon and Jessop negotiated a contract with SUPR, the owner of the pecan grove where the child labor activities took place, "to act as the manager and operator of the pecan groves." Paragon and Jessop then hired Barlow to perform the duties required under the contract on behalf of Paragon. To complete the work that Paragon was obligated to do at SUPR, Barlow recruited, organized, and facilitated hundreds of children from the FLDS Church, including some of Jessop's own minor children, to participate in the harvest, picking up pecans for long days for numerous weeks. Children from the FLDS Church also worked at SUPR before and after the harvest to prepare the fields in advance of the harvest and clean up the fields and hull the pecans after the harvest. These children worked during school hours and were not paid for their labor in violation of the child labor provisions in Sections 12(c)

and 15(a)(4) of the FLSA. Under the contract with SUPR, Paragon would have received 70% of the proceeds from the sale of the pecans and thus financially benefit from the child labor.³

Barlow's testimony during Wage Hour's investigation establishes that he facilitated the child labor activities in this capacity for Paragon's financial benefit. Inconsistencies in Jessop's testimony during Wage Hour's investigation also demonstrate that any denial he makes of involvement in the activities at the pecan farm is not credible.

Moreover, testimony from people in the FLDS community, including Alyssa Bistline and the Barlow Family, establishes that Paragon, through Jessop, maintained control of the activities at SUPR through Barlow. These witnesses also establish that members of the FLDS Church, including minor children, worked at SUPR on a year round basis under Barlow's direction.

The evidence establishes that Paragon and Jessop knew that child labor was being used on behalf of Paragon at SUPR, and that they were violating the child labor provisions of the FLSA and, correspondingly, the Consent Judgement.

V. REQUEST FOR RELIEF

As the facts above show, Defendants failed to abide by the Consent Judgment entered by this Court and thus should be held in contempt of court. Therefore, this Court should order Defendants to appear and show if there is any reason they should not be held in civil contempt. Should the Court find Defendants are in contempt of its order, Plaintiff respectfully requests that the Court order the following relief:

³ However, because of a hot goods action investigation initiated by the Secretary, SUPR by agreement with DOL set aside the proceeds from the sale of the 2012 pecans for use in any resulting civil money penalties or back wages assessed against Paragon. DOL is holding the proceeds in escrow until resolution of its investigation.

A. Back Wages

As explained above, not only did Defendants fail to abide by the Consent Judgement entered by this Court, but Defendants also failed to pay wages to the individuals (both adults and children) working at SUPR on Paragon's behalf. Therefore, as a remedy for their contempt, the Secretary respectfully requests that Defendants be ordered to pay back wages to the individuals who worked for Paragon during the 2012 pecan harvest at SUPR. In order to effectuate this remedy, the Secretary requests that the Court appoint a third party to determine the amount of back wages owed, including any amount owed for overtime worked, and that Defendants be ordered to retain and pay the third party appointed by the Court. The Secretary also requests that a procedure be established whereby FLDS members who worked during the 2012 pecan harvest at SUPR but were not paid be able to petition for payment of their back wages during a three year period and that the Court-appointed third party determine the validity of such claims and the amount due such employees.

B. Enhanced Compliance Terms

Because Defendants failed to comply with the Consent Judgement entered by this Court, and continued to violate the FLSA by using child labor, the Secretary respectfully requests that following enhanced compliance terms be ordered by this Court:

1. Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer, 29 U.S.C. § 203(ds), or has an ownership interest of 10% or greater, shall abide by all federal and state laws, specifically including the FLSA, child labor, minimum wage, overtime, anti-retaliation, and record keeping regulations; the Migrant and Seasonal Agricultural Worker Protection Act ("MSPA") regulations; and Occupational Safety and Health Administration ("OSHA") regulations (including field sanitation).

2. Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, shall post informational posters on all of its job sites regarding the FLSA (including child labor, minimum wage, overtime, and record keeping requirements), as well as MSPA and OSHA regulations.
3. Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, shall consult with the Wage and Hour Division, Salt Lake City District Office, to identify an independent monitor/auditor free of conflicts and with expertise in FLSA compliance that is acceptable to Wage Hour. Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, are responsible for paying all costs relating to the independent monitor. The independent monitor shall conduct annual compliance audits for a five-year period, evaluating Paragon's ongoing compliance with the FLSA, MSPA, and OSHA and all related regulations, for all work performed by Paragon in any capacity, and to provide the Wage Hour Salt Lake City District Office with a statement of compliance on a bi-annual basis on January and June of 2016, 2017, 2018, 2019, and 2020. In the event of a finding of noncompliance by the auditor, Paragon will correct the noncompliant action(s) within 14 days and notify the Wage Hour Salt Lake City District Office that a finding of noncompliance was made with proof that corrective action has been taken.
4. Any time persons under the age of 18 will be working on a job site where Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, is performing work, Paragon will alert the Wage Hour, Salt Lake City District Office, five days before commencing work. This requirement is effective for five-years.
5. Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, shall require and ensure that all entities and persons with which it contracts (formally or informally) will:
 - a. remain compliant with all state and federal laws, specifically including the FLSA, child labor, minimum wage, overtime, and record keeping regulations, MSPA, and OSHA regulations;
 - b. confirm that no one under the age of 16 will be working on the job site in any capacity.
6. Future Investigations/Access to Job Sites: Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, shall allow all federal agencies, including

Wage Hour and OSHA, to conduct future investigations at any of its job sites and will allow federal agencies entry to its job sites and headquarters immediately upon request without a warrant or any other prerequisite for entry.

7. Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, shall not discriminate, retaliate or take any adverse employment action, or threaten or imply that adverse action will be taken against any employee who exercises or asserts his or her rights under the FLSA (including without limitation, providing information to any public agency investigating compliance with the FLSA, filing any complaint or instituting or causing to be instituted any proceeding under or related to the FLSA, testifying or preparing to testify in any such proceeding, or serving or preparing to serve on an industry committee). Violation of this paragraph may subject Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, to equitable and legal damages, including punitive damages and civil contempt.
8. Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, shall not request, solicit, suggest or coerce, directly or indirectly, any employee to return or to offer to return to them or to someone else for them, any money in the form of cash, check or in any other form, for wages previously due or to become due in the future to said employees under the provisions of this judgment or the FLSA; nor shall Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, 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 FLSA; nor shall Paragon, and any successor in interest, and Jessop, in any future entity in which he acts in the capacity of a 3(d) employer or has an ownership interest of 10% or greater, 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 from Paragon or Jessop under the provisions of this judgment or the FLSA.
9. Brian Jessop is required, for a period of 10 years, to provide the Court within 10 days of changing employment (whether he works for a company he owns or not): (a) an affidavit setting forth the name of his new employer (including address and phone number); (b) a description of his job duties and the name of his supervisor; and (2) an affidavit from a principal of the employer attesting to Jessop's percentage of ownership (if any), whether Jessop supervises any employees and if so their names and ages, the names of any of his relatives that either work in the company or hold any ownership interest, a list of any related entities, and a statement attesting to compliance with the FLSA including its minimum wage, overtime, record-keeping,

and child labor provisions.

C. Factual Findings

As a remedy for Defendants' contempt, the Secretary respectfully requests that the Court enter the following factual findings. The Secretary is separately pursuing the imposition of civil money penalties against Defendants Paragon and Jessop, as well as the FLDS Church, Jeffs,⁴ and Barlow, for violations of the child labor provisions of the FLSA, and the Secretary seeks the Court's recognition of these factual findings for use in that proceeding. The proposed factual findings are reasonable and appropriate in light of the evidence gathered by Wage Hour to date and they are necessary due to Defendants' failure to cooperate with Wage Hour's investigation and provide information relevant to child labor activities that took place at SUPR. Such relief is an appropriate remedy for Defendants' contempt because the civil money penalties are related to Defendants' contempt of this Court's Order, as such penalties are an additional tool that the Secretary can use to enforce the child labor provisions of the FLSA and ensure compliance with the Courts' orders.

1. Paragon Contractors Corporation ("Paragon") is an employer and an enterprise that is engaged in commerce or in the production of goods for commerce.
2. Brian Jessop ("Jessop") is the sole owner, manager, and president of Paragon. He is responsible for Paragon's day-to-day operations, including making employment decisions, and overseeing all aspects of the company.
3. Paragon and Jessop managed and operated the Southern Utah Pecan Ranch ("SUPR"), located at 2000 S. 5400 W #3, Hurricane, UT 84737, in 2012.

⁴ The FLDS Church and Jeffs failed to timely contest the civil money penalty assessment. As a result, the penalties have become final orders of the Department of Labor. Barlow did file a timely contest.

4. Jessop negotiated and was responsible for fulfilling Paragon's contract with SUPR in 2012 and he is the person most familiar with Paragon's activities at SUPR.
5. Paragon, through the FLDS Church, Lyle Jeffs ("Jeffs"), Dale Barlow ("Barlow"), and Jessop, coordinated efforts to supply the labor and materials necessary to satisfy Paragon's contractual obligation to manage and operate the pecan harvest at SUPR in 2012.
6. Paragon, through the FLDS Church, Jeffs, Barlow, and Jessop, provided access to SUPR, as well as all instruction, direction, and supervision, for members of the FLDS Church to participate in the pecan harvest each year, including the 2012 harvest.
7. Barlow is employed by Paragon to maintain the pecan orchard on a year round basis and control the day-to-day operations at SUPR on behalf of Paragon and the FLDS Church.
8. Barlow is an agent of Paragon.
9. In 2012, Paragon, through the FLDS Church, Jeffs, Barlow, and Jessop, provided security and the labor and supplies necessary to maintain the pecan trees and take care of the operational maintenance of equipment at SUPR.
10. In 2012, Jessop worked on Jeff's security team and provided security for the FLDS Church.
11. During the 2012 pecan harvest at SUPR, Paragon, the FLDS Church, Jeffs, Barlow, and Jessop, allowed at least 1,400 school age children and their parents to enter SUPR and suffered or permitted them to work on the pecan harvest. Of these individuals, at least 125 of them were under the age of 12; at least 50 of them were between the ages of 12-13; and at least 25 of them were between the ages of 14-15.
12. Paragon did not pay any of the FLDS Church members who worked on the nut harvest at SUPR in 2012 for their labor in violation of the FLSA's minimum wage provision, 29 U.S.C. § 206.
13. The FLDS children and families who worked at SUPR in 2012 for the FLDS Church, Jeffs, Barlow, Jessop, and Paragon were employed in the production of goods for commerce by harvesting pecans that were subsequently sold out of state.
14. Together, the FLDS Church, Jeffs, Barlow, Jessop, and Paragon are an enterprise engaged in commerce or in the production of goods for commerce.
15. Paragon had the same role at the pecan harvest at SUPR from at least 2007-2012.

16. The minor children who were employed by Paragon, Jessop, the FLDS Church, Jeffs and Barlow at SUPR worked in agriculture during regular school hours for the school district where they lived at the time.
17. None of the minor children were employed by their parents, or persons standing in the place of their parents, or on a farm owned or operated by their parents; and none of the minor children were employed with the written consent of their parents or person standing in the place of their parents.
18. Paragon and Jessop failed to maintain or preserve any records of employment for the 1,400 employees who worked on the 2012 pecan harvest at SUPR, including records of employment for the minor employees reflecting their dates of birth and proof of age.
19. Paragon and Jessop failed to maintain or preserve a record of hours worked by employees engaged in the 2012 pecan harvest at SUPR.
20. Paragon, through the FLDS Church, Jeffs, Barlow, and Jessop, coordinated, facilitated, and organized the employees by directing when to report for work; where to report for work; and providing any and all instructions and directions related to their job duties.
21. Barlow was an employee and authorized agent of Paragon who facilitated the harvest at SUPR in 2012 at the direction of Paragon and Jessop.
22. Barlow acted directly and indirectly in the interest of Paragon and Jessop as it relates to the individuals who participated in the harvest and his work benefited Paragon and Jessop as well as the FLDS Church.
23. Paragon, Jessop, Barlow, Jeffs and the FLDS Church had unified operations and common control of these 1,400 employees who participated in the 2012 harvest at SUPR for the common business purpose of collecting pecans and preparing them for commerce.
24. Paragon's annual gross volume of business was not less than \$500,000.00 in 2011, 2012, and 2013.
25. Paragon and Jessop's conduct as described herein was willful in that Paragon and Jessop were aware of their obligations under the Fair Labor Standards Act and the provisions relating to child labor based on earlier legal proceedings (2:06cv700-TC).

D. Amended Permanent Injunction

Finally, the Secretary respectfully requests that the Court enter an Amended Permanent

Injunction against Defendants, again enjoining them from violating the provisions of the FLSA.

A proposed Amended Permanent Injunction will be provided by Plaintiff.

VI. CONCLUSION

For the foregoing reasons, the Secretary of Labor respectfully requests that the Court issue an order compelling Defendants Paragon Contractors Corporation and Brian Jessop to appear and explain why they should not be held in civil contempt of the Consent Judgment. If Defendants are unable to establish they are not in contempt, this Court should order Defendants to pay unpaid back wages, order Defendants to abide by enhanced compliance terms, adopt the factual findings set forth above, and enter an amended permanent injunction.

Dated this 8th day of September, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a courtesy copy of the foregoing Motion for Order to Show Cause and attachments were served this 8th day of September 2015, by mailing true copies thereof upon the following individuals by regular U.S. Mail, with postage pre-paid:

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