

NOW, therefore, upon motion for the attorneys for Plaintiff and Defendants, and for cause shown:

JUDGMENT IS HEREBY ENTERED against Defendants pursuant to section 17 of the Act as follows:

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

I

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 \$7.25 per hour (or at a rate less than such other applicable minimum rate as may hereafter be established by amendment to the Act).

II

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 40 hours, unless such employee receives compensation for his employment in excess of 40 hours at a rate not less than one and one-half times the regular rate at which he is employed. The “regular rate” includes

all sums paid for all hours worked and such sums divided by all hours worked equals the “regular rate.”

III

From the date of entry of this Consent Judgment, Defendants shall not fail to make, keep and preserve records of their employees 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 at 29 C.F.R. Part 516, including, but not limited to, maintaining records of all hours worked by each employee in each workday and each workweek and records of compensation paid to each employee in each workweek, whether payment is made by a payroll check, personal check, cash or a combination thereof. The records maintained by Defendants shall also include, but not be limited to, the full name and last-known mailing address of all employees, the daily starting and stop time of each employee, and the specific method of payment made to each employee.

In addition, Defendant shall post in a conspicuous place, in both English and Polish, a poster which is WH-1088 which provides notice to employees as to their rights and responsibilities under the Act. This poster is available in both English and Polish and can be found at <http://www.dol.gov/whd/resources/posters.htm>.

IV

For the purposes of this Consent Judgment, Defendants shall treat all persons hired, engaged, or utilized in conducting the masonry business of Defendants as employees under the Act. This includes, but is not limited to, those persons performing services for Defendants as laborers, masonry workers, drivers, crew leaders or foremen.

V

The Defendants hereby acknowledge and the Court finds that the persons listed in Plaintiff's complaint and in Exhibit A of this Consent Judgment were employees of **EXPERTIZE MASONRY, INC.** and **PAWEL WALASZEK** within the meaning of the Act and are not independent contractors.

VI

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 **\$104,115.72**:

A. Defendants **EXPERTIZE MASONRY, INC.**, a corporation, and **PAWEL WALASZEK**, individually, are liable to Plaintiff the sum of **\$52,057.86**, which represents the minimum wage and overtime compensation found due for the period of January 7, 2012 through January 4, 2014, to the present and former employees named and in the amounts set forth in Exhibit A attached hereto and made a part hereof.

B. Defendants **EXPERTIZE MASONRY, INC.**, a corporation, and **PAWEL WALASZEK**, individually, are further liable to Plaintiff as liquidated damages the additional sum of **\$52,057.86**, hereby found to be due for the period of January 7, 2012 through January 4, 2014, to the present and former employees named and in the amounts set forth in Exhibit A, attached hereto and made a part hereof.

C. Payment by Defendants **EXPERTIZE MASONRY, INC.**, a corporation, and **PAWEL WALASZEK**, individually, totaling **\$104,115.72**, as aforesaid satisfies Plaintiff's claim for back wages and liquidated damages for the persons listed in Exhibit A for the period of January 7, 2012 through January 4, 2014.

VII

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 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 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 from the Defendants under the provisions of this Judgment or this Act.

VIII

In order to ensure compliance with the provisions of this Consent Judgment and with the Act, Defendants further agree that should they remain employers after entry of this Consent Judgment, they will undertake the following actions:

Defendants shall retain a certified public accounting firm, at their own cost, to conduct an annual audit of Defendants' pay practices to determine compliance with the Act for a period of two years from the date of entry of this judgment. The first audit shall be conducted one year from the date of entry of this judgment. The following requirements apply with respect to each of the annual audits:

- (1) The accounting firm selected by Defendants shall be knowledgeable of the minimum wage, overtime and record keeping provisions of the FLSA and the regulations;

- (2) The audits shall include interviews of a representative sample¹ of the workers employed by Defendants in each position (such as laborers, masonry workers, crew leaders or foremen) regarding their job duties, hours worked, and pay and shall be conducted in the primary language spoken by the employee;
- (3) The audits shall be scheduled to ensure the availability of the maximum number of workers for the period of each audit;
- (4) The audits shall also include a review of a representative sample² of payroll records for the preceding 12-month period to determine compliance with the recordkeeping regulations found at 29 C.F.R. Part 516;
- (5) The independent auditor shall prepare an audit report on the status of compliance with the minimum wage, overtime, and recordkeeping provisions of the FLSA (29 U.S.C. §§ 206, 207, 211), covering the preceding 12-month period. Within 30 days of completion, Defendants shall notify Plaintiff that the audit report has been done, and the audit report shall be made available to the Plaintiff within ten (10) days after requested; and
- (6) Approval by the auditor or acceptance of the audit reports shall not be construed as acceptance by the Department of Labor of the findings of any audit nor limit in any way the authority of the Plaintiff to enforce the provisions of this Consent Judgment or of the Act and to conduct any investigation or take any remedial actions authorized by the Act.

¹ Interviews conducted of at least 10 percent of the total number of workers in each category of positions shall constitute a “representative sample.”

² A “representative sample” shall include review of payroll records for one month of each fiscal quarter of the previous year.

IX

Defendants shall provide its current employees and any new employees with the following information in both English and Polish for a period of two years:

- (1) A copy of the *Handy Reference Guide to the Fair Labor Standards Act* (WH-1282), published by the U.S. Department of Labor and found at <http://www.dol.gov/whd/>, which sets forth employee's rights and responsibilities under the Act;
- (2) A copy of the *Work Hours Recordkeeper* book (WH-1497), published by the Department of Labor and found at <http://www.dol.gov/whd/>, which can be used by employees to record their hours worked; and
- (3) The local telephone number of the U.S. Department of Labor, Wage and Hour Division, which is (312) 789-2950.

X

FURTHER, it is agreed by the parties herein and hereby **ORDERED** that each party bear his, hers or its own fees and other expenses incurred by each party in connection with any stage of this proceeding to date with no costs, including, but not limited to, any and all costs referenced under the Equal Access to Justice Act, as Amended.

FURTHER, this Court shall retain jurisdiction of this matter to enforce the terms of the Consent Judgment.

Dated April 6, 2016.


SAMUEL DER-YEGHAYAN
United States District Court Judge

Defendants hereby consent to entry of this judgment this 5th day of April, 2016.

**EXPERTIZE MASONRY,
INC.**

By: Pawel Walaszek

Its: President

s/ Pawel Walaszek
PAWEL WALASZEK, individually

s/ Lance C. Ziebell

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EXHIBIT A

Name	Back Wages
Chrostowska, Urszula	\$184.00
Derevianko, Alexander	\$4,202.22
Dluzniewski, Maciej	\$672.00
Galent, Mariusz	\$1,010.00
Gil, Mieczyslaw	\$1,100.00
Grynyuk, Petro	\$734.50
Gwizd, Roman	\$569.50
Kosinski, Piotr	\$5,210.00
Koval, Igor	\$2,988.00
Ksel, Jan	\$4,375.00
Lisovy, Volodymyr	\$799.00
Markowski, Jan	\$6,875
Nawrocki, Zbigniew	\$6,217.75
Pazdyka, Grzegorz	\$7,612.50
Radomski, Robert	\$277.50
Sagula, Jozef	\$3,250.50
Sobczyk, Andrzej	\$3,250.50
Trinchuk, Roman	\$722.50
Zaletskyy, Mykhaylo	\$1,056.11
Zebrowski, Wojciech	\$768.00
TOTAL:	\$52,057.86