

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THOMAS E. PEREZ, Secretary of Labor,)
United States Department of Labor,)
)
Plaintiff,)

v.)

Civil action no.: 1:16-cv-11550

T.R. TIMBER COMPANY, a Michigan)
corporation, and)
TONY M. ROSEBRUGH, an individual,)
)
Defendants.)

CONSENT JUDGMENT

Plaintiff, **THOMAS E. PEREZ**, Secretary of Labor, United States Department of Labor, (“Plaintiff”) having filed his Complaint and Defendants **T.R. TIMBER COMPANY**, a Michigan corporation, and **TONY M. ROSEBRUGH** (collectively “Defendants”), hereby acknowledge receipt of a copy of the Complaint herein and waive service thereof, having been duly advised in the premises, agree to the entry of this Consent Judgment without contest under the Fair Labor Standards Act of 1938, as Amended (29 U.S.C. § 201 *et seq.*) (“the Act” or “FLSA”).

Defendants hereby acknowledge that Corporate Defendant **T.R. TIMBER COMPANY** is and at all times hereinafter mentioned, was an enterprise or comprised an enterprise engaged in commerce within the meaning of sections 3(r) and 3(s)(1)(A) of the Act. 29 U.S.C. §§ 203(r), 203(s)(1)(A).

Defendants hereby acknowledge that Individual Defendant **TONY M. ROSEBRUGH**, at all times hereinafter mentioned, acted directly or indirectly in the interest of **T.R. TIMBER COMPANY**, in relation to employees within the meaning of section 3(d) of the Act and is individually responsible for compliance with the Act and for the obligations contained herein.

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

JUDGMENT IS HEREBY ENTERED against Defendants pursuant to section 16(c) and 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 rates at which he is employed.

III

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 at 29 C.F.R. Part 516. This includes, but is 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.

IV

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 \$193,260.78.

A. Defendants shall pay to Plaintiff the sum of \$96,630.39, which represents the overtime compensation hereby found to be due to the present and former employees named and in the amounts and for the time periods set forth in Exhibit A, attached hereto and made a part hereof.

B. Defendants, shall further pay to Plaintiff, as liquidated damages, the additional sum of \$96,630.39, hereby found to be due to the present and former employees named and in the amounts and for the time periods set forth in Exhibit A.

V

The monetary provisions of this judgment shall be deemed satisfied by Defendants, upon the following:

A. A schedule in duplicate, showing the full name, last-known address, social security number, gross amount of wages due, and amounts deducted solely from the gross wages for the employees' share of social security and withholding taxes, the net amount, the gross

amount paid as liquidated damages and the total amount due for each employee named in Exhibit A. Said deductions shall be paid by Defendants to the appropriate State and Federal revenue authorities. Defendants shall remain responsible for paying their share of any applicable taxes to the appropriate State and Federal revenue authorities.

B. Separate certified checks for each employee named in Exhibit A, made payable to the order of the employee or the “Wage and Hour Div., Labor,” as alternative payees, (*e.g.*, the first check should read “PAY TO THE ORDER OF *** or the Wage and Hour Div., Labor”) and be equal to the total amount due to each such employee, after adding the net amount of wages and gross amount of liquidated damages, as listed opposite his or her name in Exhibit A attached; and

C. Plaintiff shall distribute the checks referred to in Paragraph B above, or the proceeds thereof, to the persons named in Exhibit A attached hereto, or to their estates, if that be necessary, and any amounts of unpaid overtime compensation or liquidated damages not so paid within a period of (3) years from the date of receipt thereof shall, pursuant to 16(c) of the Act, be covered into the Treasury of the United States as miscellaneous receipts. Defendants remain responsible for paying their share of any applicable taxes to the appropriate State and Federal revenue authorities.

VI

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.

VII

FURTHER, it is agreed by the parties herein and hereby **ORDERED** that:

A. Defendants shall provide to all current and future employees a copy of “Factsheet #23: Overtime Pay Requirements for the FLSA” available at the U.S. Department of Labor’s website at <https://www.dol.gov/whd/regs/compliance/whdfs23.pdf>.

B. For two years after the date of entry of this Consent Judgment, Defendants will conduct quarterly reviews of its pay practices to ensure ongoing compliance with the FLSA. Defendants shall correct any policies or practices that are not in compliance with the FLSA and maintain a report of its quarterly reviews. Defendants shall provide to Wage and Hour Division a copy of these quarterly review reports upon request.

VIII

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 such 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.

IT IS SO ORDERED:

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: July 7, 2016

Consented to By Plaintiff:

M. PATRICIA SMITH
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

s/ David J. Rutenberg
DAVID J. RUTENBERG
Attorney

Attorneys for the Plaintiff

U.S. Department of Labor
Office of the Solicitor
230 S. Dearborn St., #844
Chicago, IL 60604

Consented to By Defendants:

s/ with consent of Tony M. Rosebrugh
TONY M. ROSEBRUGH
Individually and as Owner
T.R. Timber Company

s/ with consent of James B. Perry
JAMES B. PERRY
Attorney for Defendants

Dickinson Wright PLLC
500 Woodward Ave., Suite 4000
Detroit, MI 48226

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 7, 2016.

s/Michael A. Sian
Michael A. Sian, Case Manager

Exhibit A
Back wages and Liquidated Damages due for the time period
November 25, 2012 through February 21, 2015

Name	Back wages due	Liquidated damages due	Total due
Eric Bradley	\$5,500.94	\$5,500.94	\$11,001.88
Thomas Erskine	\$12,875.13	\$12,875.13	\$25,750.26
Michael Gawne	\$11,68.75	\$11,68.75	\$2,337.50
Mike Green	\$12,799.47	\$12,799.47	\$25,598.94
Steven Kirby	\$4,018.50	\$4,018.50	\$8,037.00
Jack Lauria	\$2,087.50	\$2,087.50	\$4,175.00
Tyler Masunas	\$4,862.75	\$4,862.75	\$9,725.50
Rodney Provoast	\$4,852.73	\$4,852.73	\$9,705.46
Daniel Rachow	\$9,85.94	\$9,85.94	\$1,971.88
Joe Ranger	\$4,774.94	\$4,774.94	\$9,549.88
Justin Reed	\$8,561.69	\$8,561.69	\$17,123.38
Martin Smith	\$16,531.11	\$16,531.11	\$33,062.22
Joseph Verette	\$8,127.38	\$8,127.38	\$16,254.76
Nathan White	\$8,921.81	\$8,921.81	\$17,843.62
Jeremy Wiles	\$561.75	\$561.75	\$1,123.50
TOTAL	\$96,630.39	\$96,630.39	\$193,260.78

Certificate of Service

I certify that on July 5, 2016, I served the foregoing by electronic mail on the foregoing:

James B. Perry, Esq.
Counsel for Defendants
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s/David J. Rutenberg
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