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Acting United States Secretary of Labor

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9 **UNITED STATES DISTRICT COURT**
WESTERN DISTRICT OF WASHINGTON
10 **AT TACOMA**

11 Case No. 3:24-cv-05220

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

13 Plaintiff,

14 v.

15 CONTINENTAL FLORAL LLC, a Washington
corporation; JIM MILGARD, JR., an individual;
16 and SCOTT SCHAUER, an individual,

17
18 Defendants.

CONSENT JUDGMENT AND ORDER

1 Plaintiff Julie A. Su, Acting United States Secretary of Labor (“Acting Secretary”), and
2 Defendants Continental Floral LLC, a Washington corporation; Jim Milgard, Jr., an individual;
3 and Scott Schauer, an individual (“Defendants”) (collectively, the “Parties”), have agreed to
4 resolve this civil action and stipulate to the entry of this Consent Judgment on the terms and
5 conditions set forth below.

6 **I. STATEMENTS AND AGREEMENTS BY THE PARTIES**

7 A. The Acting Secretary filed a Complaint alleging that Defendants violated the following:

- 8 1. Sections 7 and 15(a)(2) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 207,
9 215(a)(2).
- 10 2. The H-2B provisions of the Immigration and Nationality Act (“INA”), as amended, 8
11 U.S.C. §§ 1101(a)(15)(H)(ii)(b) *et seq.*, 1184(c)(14), and their implementing
12 regulations at 20 C.F.R. § 655 and 29 C.F.R. § 503 (“H-2B Implementing
13 Regulations”); and
- 14 3. Sections 201, 202, 203, 401, 403, and 404 of the Migrant and Seasonal Agricultural
15 Worker Protections Act (“MSPA”), 29 U.S.C. §§ 1821, 1822, 1823, 1841, 1842, 1843
16 and its implementing regulations at 29 C.F.R. § 500 (“MSPA Implementing
17 Regulations”) (hereafter, “Complaint”).

18 B. Defendants acknowledge receipt of a copy of the Acting Secretary’s Complaint in this
19 action.

20 C. Defendants waive issuance and service of process of the Summons and Complaint and
21 waive their response to the Acting Secretary’s Complaint.

22 D. The Parties stipulate that the Court has jurisdiction over the Parties and subject matter of
23 this civil action and that venue lies in the Western District of Washington.

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1 E. The Parties agree to waive findings of fact and conclusions of law and agree to the entry of
2 this Consent Judgment without further contest.

3 F. The Acting Secretary conducted an investigation of Defendants pursuant to the FLSA, the
4 H-2B provisions of the INA, and MSPA covering the period of November 10, 2019 to December
5 5, 2022 (“Subject Period”). The Parties have agreed to resolve all FLSA, H-2B, and MSPA
6 violations attributable to Defendants through this Consent Judgment.

7 G. Defendants acknowledge that they and any individual or entity acting on their behalf or at
8 their direction or in conjunction with Defendants have notice of, and understand, the provisions of
9 this Consent Judgment and Order.

10 H. Defendants stipulate that at all relevant times they were employers of their employees
11 listed on **Exhibit A** within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d), H-2B
12 Implementing Regulation 29 C.F.R. 503.4, and Section 3 of MSPA, 29 U.S.C. § 1802(2).

13 I. Defendants stipulate that at all relevant times they manufactured and transported products
14 incorporating fresh cut greens, such as wreaths, garland, boughs, and other decorative products in
15 and from Shelton, Washington; Defendants were an enterprise engaged in commerce or in the
16 production of goods for commerce within the meaning of Section 3(s)(1)(A) of the FLSA, 29
17 U.S.C. § 203(s)(1)(A).

18 J. The Acting Secretary’s Wage and Hour Division (“WHD”) found Defendants violated the
19 FLSA, INA, H-2B Implementing Regulations, MSPA, and MSPA Implementing Regulations
20 during the Subject Period as listed below and WHD timely informed Defendants of these
21 violations:

- 22 1. The Acting Secretary found that workers employed under H-2B Temporary
23 Employment Certifications (“TEC”) worked more than the 40 hours per workweek
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1 specified in Defendants' TEC Applications. The Acting Secretary found that H-2B
2 workers employed for more than 40 hours per workweek were not paid overtime
3 premiums as required under Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207,
4 215(a)(2), and H-2B Implementing Regulations under 20 C.F.R. § 655.20(z) and 29
5 C.F.R. § 503.16(z).

6 2. The Acting Secretary found that Defendants did not disclose required information in
7 their TEC Applications as required under 29 C.F.R. § 503.16. In particular, despite
8 taking the following actions once workers began their job duties, Defendants did not
9 disclose the following in their TEC Applications:

- 10 a. Defendants intended to provide daily transportation to and from worksites;
- 11 b. Defendants intended to provide housing to workers employed under the TECs;
- 12 c. Defendants did not provide the accurate hours worked per workweek; and
- 13 d. Defendants did not disclose paying piece rate wages for particular job duties.

14 3. The Acting Secretary found that, in violation of 29 C.F.R. § 503.16(x), Defendants
15 employed workers outside of the area of intended employment as identified by
16 Defendants' TEC Applications.

17 4. The Acting Secretary found that, in violation of 29 C.F.R. §§ 500.104, 500.105,
18 500.120 to 500.128, 49 C.F.R. §§ 390, 393, 396, and 398.4(b), and 29 U.S.C. §
19 1841(b), Defendants provided workers unsafe transportation to a designated worksite,
20 whereby an accident involving workers occurred on November 2, 2022; the vehicle
21 was driven by Defendants' employee, who had no valid medical certificate to operate
22 the vehicle contrary to 29 C.F.R. § 500.105, 49 C.F.R. §§ 390, 393, 396, and
23 § 398.4(b), and 29 U.S.C. § 1841(b).

- 1 5. The Acting Secretary found that Defendants did not disclose the intended rate of pay,
2 the terms and conditions of transportations offered by Defendants, and the terms of
3 conditions of housing offered by Defendants as required under Sections 201 and 403 of
4 MSPA, 29 U.S.C. §§ 1821, 1843.
- 5 6. The Acting Secretary found that Defendants did not pay wages owed to workers when
6 due as required by Section 202 of MSPA, 29 U.S.C. § 1822.
- 7 7. The Acting Secretary found Defendants did not ensure safety and health standards were
8 met regarding the housing offered to workers as required under Section 203 of MSPA,
9 29 U.S.C. § 1823.
- 10 8. The Acting Secretary found that Defendants violated motor vehicle standards and
11 licensing required by employer-provided transportation under Sections 401(b) of
12 MSPA, 29 U.S.C. § 1841(b) and 29 C.F.R. §§ 500.104, 500.105, 503.16(j)(iii).

13 K. In consideration of this Consent Judgment and to resolve this case, and in restitution and
14 remediation the Parties agree to subparagraphs 1-13 below. The Parties recognize the Court’s
15 jurisdiction to permanently enjoin Defendants in this Order is made pursuant to Section 17 of the
16 FLSA, 29 U.S.C. § 217, and Section 502 of MSPA, 29 U.S.C. § 1852. *See infra* Part II. The
17 Parties recognize the Court’s jurisdiction in this Order to recover the amount of unpaid wages
18 under MSPA, and overtime compensation and an equal amount as liquidated damages under the
19 FLSA, is made pursuant to Section 502 of MSPA, 29 U.S.C. § 1852, and Section 16(c) of the
20 FLSA, 29 U.S.C. § 216(b). *See infra* Part III. For all agreements in subparagraphs 8-13 specific to
21 the H-2B provisions of the INA and the H-2B Implementing Regulations, the terms are set in this
22 Order solely to memorialize the Parties’ agreements. Separate and apart from this Order by this
23 Court, WHD will serve Defendants with a Notice of Determination, as required by 29 C.F.R.

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1 §§ 503.41 and 503.42, regarding violations of H-2B provisions under the INA. Defendants waive
2 their right to a hearing under 29 C.F.R. § 503.42 and agree that the Notice of Determination will
3 serve as the Final Order regarding H-2B violations.

- 4 1. Defendants agree to pay **\$888,000.00** in liquidated damages for violations of Section 7
5 of the FLSA, 29 U.S.C. § 207, to the employees identified in **Exhibit A** of this Consent
6 Judgment on April 15, 2024 as scheduled in **Exhibit B**.
- 7 2. Defendants agree to pay **\$888,000.00** in unpaid back wages for violations of Section 7
8 of the FLSA, 29 U.S.C. § 207, to employees identified in **Exhibit A** of this Consent
9 Judgment as scheduled below:
 - 10 a. On April 15, 2024, Defendants agree to pay **\$73,236.16** in unpaid back wages for
11 violations of Section 7 of the FLSA, 29 U.S.C. § 207, to employees as scheduled in
12 **Exhibit B**.
 - 13 b. Starting on May 15, 2024, Defendants agree to pay **\$814,763.84** in unpaid back
14 wages for violations of Section 7 of the FLSA, 29 U.S.C. § 207, to employees
15 under a monthly payment plan as scheduled in **Exhibit C**.
- 16 3. Defendants agree to pay **\$74,000.00** to the Acting Secretary in unpaid back wages for
17 violations of Section 202 of MSPA, 29 U.S.C. § 1822 to employees under a monthly
18 payment plan as scheduled in **Exhibit C**.
- 19 4. Defendants agree to pay the Acting Secretary **\$25,000.00**, which represents the total
20 sum of the civil money penalties assessed and determined by the Acting Secretary,
21 pursuant to authority granted in Section 16 of the FLSA, 29 U.S.C. § 216, within **thirty**
22 **(30) calendar days** after the last monthly payment deadline scheduled in **Exhibit C**.

- 1 5. Defendants agree to pay the Acting Secretary **\$15,000.00**, which represents the total
2 sum of the civil money penalties assessed and determined by the Acting Secretary,
3 pursuant to Section 503 of MSPA, 29 U.S.C. § 1853, within **sixty (60) calendar days**
4 after the last monthly payment deadline scheduled in **Exhibit C**.
- 5 6. Defendants agree to pay the Acting Secretary **\$10,000.00**, which represents the total
6 sum of civil money penalties assessed and determined by the WHD Administrator,
7 pursuant to 29 C.F.R. § 503.23, within **sixty (60) calendar days** of the date of service
8 of the Notice of Determination.
- 9 7. Defendants agree to conduct a self-audit and sign an attestation by December 31 every
10 year for a period of five years to confirm the following:
- 11 a. Non-exempt workers brought under H-2B job orders and who worked more than 40
12 hours per workweek have been paid overtime premiums and the federal minimum
13 wage as required by Sections 206 and 207 of the FLSA, 29 U.S.C. §§ 206, 207.
- 14 b. Non-exempt workers brought under H-2B job orders work in their intended place
15 of employment as identified in their job orders or applications for temporary
16 seasonal employment.
- 17 c. Motor vehicles used to transport workers comply with all applicable federal, state,
18 and local laws and regulations, and, at a minimum, the same transportation safety
19 standards, driver licensure, and vehicle insurance as required under 29 C.F.R. §§
20 500.104, 500.105, 500.120 to 500.128, 49 C.F.R. §§ 390, 393, 396, and 398.4(b),
21 and 29 U.S.C. § 1841(b).
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1 d. Drivers operating motor vehicles transporting workers have the required physical
2 requirements, medical certifications, and driver's license under 29 C.F.R.

3 § 500.105, 49 C.F.R. §§ 390, 393, 396, and 398.4(b), and 29 U.S.C. § 1841(b).

4 Defendants will send the yearly attestation to WHD District Director of the Seattle District
5 Office, currently Thomas Silva (silva.thomas@dol.gov). Irrespective of the above, WHD
6 may conduct an inspection ensuring compliance of the aforementioned under 29 C.F.R.
7 §§ 500.7 and 516.8, and 29 U.S.C. § 211.

8 8. Defendants agree WHD will train Defendants' Human Resources Department, payroll
9 personnel, supervisors, and managers about FLSA, INA, H-2B, MSPA, and their
10 implementing regulations twice in 2024 and twice in 2025. The first training of the
11 year in 2024 and 2025 will be **thirty (30) calendar days** prior to submitting TEC
12 Applications for workers intended to be employed for the peak season, which begins
13 on or around September. The second training of the year in 2024 and 2025 will be **ten**
14 **(10) calendar days** after to the arrival of workers to the worksites, who are employed
15 for the peak season, which begins on or around September. Defendants agree to
16 coordinate with WHD District Director of the Seattle District Office, currently Thomas
17 Silva (silva.thomas@dol.gov), within **forty-five (45) calendar days** prior to submitting
18 TEC Applications for the 2024 and 2025 peak seasons, and within **forty-five (45)**
19 **calendar days** prior to the arrival of workers at worksites for the 2024 and 2025 peak
20 seasons.

21 9. Defendants agree to satisfy the requirements of H-2B approved job orders and TEC
22 applications submitted under 29 C.F.R. § 503.16 by disclosing the actual terms and
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1 conditions of employment such as all locations of intended employment, dates of work,
2 hours of work, rate of pay, and the work to be performed in the TEC Applications.

3 10. Defendants agree not to charge workers for tools, supplies, and equipment required to
4 perform their job duties as required by 29 C.F.R. § 503.16(k).

5 11. The Parties agree that within **thirty (30) calendar days** from entry of this Consent
6 Judgment by the Court, Defendants shall schedule a time with the Wage and Hour
7 Division, U.S. Department of Labor, for WHD to read the notice attached to this Order
8 as **Exhibit D**, both in Spanish and English, to workers. The time scheduled should be
9 within **ten (10) calendar days** after the arrival of workers to the worksites, who are
10 employed for the peak season, which begins on or around September. Defendants shall
11 provide notice to the employees in Spanish and English to attend the meeting and that
12 they will be paid for their time during the meeting. At the meeting, WHD will verbally
13 read employees' rights as listed in **Exhibit D**. WHD will also inform workers whom to
14 contact if there are claims under the statute and implementing regulations.

15 12. Defendants agree to provide for five years a hardcopy of **Exhibit D** to all workers
16 under TECs upon receiving their first paycheck or earnings statement from Defendants
17 for the season.

18 13. Defendants agree to provide notice of this Consent Judgment and a copy thereof to
19 their existing managers, supervisors, and payroll personnel within **thirty (30) calendar**
20 **days** of entry of this Consent Judgment. Defendants agree to provide this Consent
21 Judgment to new managers, supervisors, payroll personnel within **thirty (30) calendar**
22 **days** of their hiring date until **January 1, 2028**. Defendants agree to provide notice of
23 this Consent Judgment and a copy thereof to any successors-in-interest to Defendants.

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II. PERMANENT INJUNCTION

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, and Section 502 of MSPA, 29 U.S.C. § 1852, Defendants, their officers, agents, servants, employees, successor companies, parties in interest, and all those in active concert or participation with Defendants or acting on their behalf or at their direction, are permanently enjoined and restrained from violating the FLSA, MSPA, and MSPA Implementing Regulations with special emphasis in the manners identified below:

1. Defendants shall not, contrary to Section 7 and Section 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), pay any of their non-exempt 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 FLSA, less than time and one half the employees’ regular rate for hours worked in excess of 40 hours in a workweek;

2. Defendants shall not fail to make, keep, and preserve accurate and complete employment records as required by Section 11(c) of the FLSA, 29 U.S.C. § 211(c), and the regulations at 29 C.F.R. § 516, and shall provide access to any of these records to the Acting Secretary upon request.

3. Defendants shall maintain its payroll practices or amend its payroll practices as provided below, if not already so maintained, in compliance with the FLSA and MSPA as follows:

a. Defendants shall not fail to pay all employees overtime premiums under Section 207 of the FLSA, 29 U.S.C. § 207.

b. Defendants shall not fail to accurately record the information required by 29 §§ 516.2 and 500.80(d) in payroll records or earning statements, including (1) the basis on

1 which wages are paid; (2) the number of piecework units earned, if paid on a piecework
2 basis; (3) the number of hours worked; (4) the total pay period earnings; (5) the specific
3 sums withheld and the purpose of each sum withheld; (6) the net pay; and (7) total
4 premium pay for overtime hours.

5 c. Defendants shall not, contrary 29 U.S.C. § 1821(d)(2), fail to provide to
6 each such worker for each pay period, an itemized written statement of the following
7 information: (1) the basis on which wages are paid; (2) the number of piecework units
8 earned, if paid on a piecework basis; (3) the number of hours worked; (4) the total pay
9 period earnings; (5) the specific sums withheld and the purpose of each sum withheld; and
10 (6) the net pay.

11 d. Defendants shall not fail to maintain all time and payroll records for a
12 period of not less than three years.

13 e. Defendants shall not fail to accurately record all wages paid to employees,
14 regardless of the manner of payment, i.e. direct deposit, check, or cash, on their payroll
15 records.

16 f. Defendants shall not fail to inform third parties performing payroll duties
17 and job orders for temporary employment of the requirements of this Consent Judgment
18 and shall provide them with a copy of this Consent Judgment.

19 4. Defendants shall not, contrary to 29 U.S.C. § 1822(a) and 29 C.F.R. § 500.81, fail
20 to pay their MSPA workers their wages when due.

21 5. Defendants shall not, contrary to 29 U.S.C. §§ 1821(a) and 29 C.F.R. § 500.75(b),
22 fail to make the required written disclosures to their MSPA workers at the time of recruiting,
23 which including (1) the place of employment; (2) wage rates, including piece rates, to be paid; (3)
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1 the crops and kinds of activities on which the worker may be employed; (4) the period of
2 employment; (5) the transportation, housing, and any other employee benefits to be provided, if
3 any, and any costs to be charged for each of them; (6) whether state workers' compensation or
4 state unemployment insurance is provided.

5 6. If Defendants offer housing to workers hired under MSPA, and MSPA
6 Implementing Regulations, Defendants shall not, contrary to 29 U.S.C. § 1823, fail to provide
7 housing that meets the applicable health and safety standards.

8 7. Defendants shall not, contrary to § 1811(a), house MSPA workers without first
9 receiving a certificate of registration from the Wage and Hour Division to house workers.

10 8. Defendants shall not, contrary to 29 C.F.R. §§ 500.104, 500.105, and 29 U.S.C. §
11 1841(b), fail to provide transportation that complies with all applicable federal, state, and local
12 laws and regulations, and must provide, at a minimum, the same transportation safety standards,
13 driver licensure, and vehicle insurance as required under 29 C.F.R. §§ 500.104, 500.105, 500.120
14 to 500.128, 49 C.F.R. §§ 390, 393, 396, and 398.4(b), and 29 U.S.C. § 1841(b).

15 9. Defendants shall not, contrary to 29 C.F.R. § 500.105, employ a driver of motor
16 vehicles without the required physical requirements, medical certifications, and driver's license
17 required by 29 C.F.R. § 500.105, 49 C.F.R. §§ 390, 393, 396, and § 398.4(b), and 29 U.S.C. §
18 1841(b).

19 10. Defendants shall not, contrary to 29 U.S.C. §§ 1821(b) and 29 C.F.R. § 500.75(c),
20 fail to post the required MSPA poster at the worksite.

21 11. Defendants shall not, contrary to 29 U.S.C. § 1821(c) and 29 C.F.R. § 500.75(f),
22 fail to post in a conspicuous place or present to their MSPA workers, a statement of the terms and
23 conditions of the occupancy of any housing that they provide to their workers.

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1 Pursuant to this Consent Judgment, **IT IS HEREBY ORDERED THAT:**

2 1. Defendants shall pay **\$888,000.00** in unpaid overtime wages due under the FLSA
3 and this Judgment to the employees identified in **Exhibit A**, which is incorporated in and made
4 part of this Consent Judgment.

5 2. Defendants shall pay **\$888,000.00** in liquidated damages due under the FLSA and
6 this Judgment to the employees identified in **Exhibit A**.

7 3. Defendants shall pay **\$74,000.00** in back wages due under MSPA and this
8 Judgment to the employees identified in **Exhibit A**.

9 4. The amount of **\$25,000.00** in civil money penalties is assessed against Defendants
10 and finally determined, pursuant to FLSA Section 16(e), 29 U.S.C. § 216(e). Defendants waive the
11 right to a hearing with respect to this assessment of civil money penalties.

12 5. The amount of **\$15,000.00** in civil money penalties is assessed against Defendants
13 and finally determined, pursuant to Section 503 of MSPA, 29 U.S.C. § 1853. Defendants waive
14 the right to a hearing with respect to this assessment of civil money penalties.

15 6. On or before **April 15, 2024**, Defendants shall pay the total of **\$888,000.00** in
16 liquidated damages under the FLSA pursuant to the schedule outlined in **Exhibit B** and under the
17 following terms:

- 18 a. Defendants are responsible for locating all employees listed in **Exhibit A**.
- 19 b. If the employees in **Exhibit A** are located outside of the United States during the
20 payment deadline for liquidated damages on **April 15, 2024**, Defendants shall pay
21 by a separate Western Union or wire transfer to each employee in the amount equal
22 to 100 percent of the total gross liquidated damages due as specified in **Exhibit B**.
- 23 c. If any of the employees are located within the United States during the payment
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1 deadline for liquidated damages on April 15, 2024, Defendants shall deliver a
2 separate check or money order to each employee in the amount equal to 100
3 percent of the total gross liquidated damages due as specified in **Exhibit B**.

4 d. On or before **April 22, 2024**, Defendants shall deliver to WHD District Director of
5 the Seattle District Office, currently Thomas Silva (silva.thomas@dol.gov),
6 evidence of payment of liquidated damages to each person named in **Exhibit B**.

7 7. On or before **April 15, 2024**, Defendants shall pay a total of **\$73,236.16** in back
8 wages under the FLSA pursuant to the schedule described in **Exhibit B** and under the following
9 terms:

- 10 a. Defendants are responsible for locating all employees listed in **Exhibit A**.
- 11 b. Employees listed in **Exhibit A**, who are owed FLSA back wages under this
12 paragraph (Paragraph 7), are due FLSA back wages of \$850.00 or less.
- 13 c. If the employees subject to this paragraph (Paragraph 7) are located outside of the
14 United States during the payment deadline for back wages on **April 15, 2024**,
15 Defendants shall pay back wages as specified under this paragraph (Paragraph 7)
16 and scheduled in **Exhibit B** through a separate Western Union or wire transfer to
17 each employee in the amount equal to 100 percent of the net back wage amount due
18 to each employee after making the legal deductions for social security and
19 withholding taxes that the Defendants must pay directly to federal and state
20 agencies entitled to such taxes when due.
- 21 d. If any of the employees are located within the United States during the payment
22 deadline for back wages on **April 15, 2024**, Defendants shall pay back wages as
23 specified under this paragraph (Paragraph 7) and scheduled in **Exhibit B** by
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1 delivering a separate check or money order to each employee in the amount equal
2 to 100 percent of the net back wage amount due to each employee after making the
3 legal deductions for social security and withholding taxes that the Defendants must
4 pay directly to federal and state agencies entitled to such taxes when due.

5 e. On or before **April 22, 2024**, Defendants shall deliver to WHD District Director of
6 the Seattle District Office, currently Thomas Silva (silva.thomas@dol.gov),
7 evidence of payment of back wages to each person named in **Exhibit B**.

8 f. For the located employees subject to this paragraph (Paragraph 7), Defendants may
9 make **one payment** comprised of the FLSA liquidated damages amount described
10 in Paragraph 6 and the back wage amount described in Paragraph 7 in either of two
11 ways: (1) through Western Union or wire transfer if the employees are located
12 outside of the United States, or (2) by check or money order if the employees are
13 located within the United States, so long as the payments are itemized, i.e. the
14 amount computed for liquidated damages, back wages, and any applicable
15 deductions or withholdings to the back wage amount.

16 8. **On May 15, 2024**, Defendants shall start a monthly payment plan as scheduled in
17 **Exhibit C** and under the terms below:

18 a. **Exhibit C** schedules the payment of a total of **\$814,763.84** in back wages due
19 under the FLSA for employees listed in **Exhibit A**, who are owed FLSA back
20 wages in an amount greater than \$850.00.

21 b. **Exhibit C** schedules the payment of a total of **\$74,0000** in back wages due under
22 MSPA.

23 c. Defendants are responsible for locating employees listed in **Exhibit A** throughout
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the duration of the payment plan scheduled in **Exhibit C**.

d. If the employees subject to this paragraph (Paragraph 8) are located outside of the United States during the monthly payment plan deadlines scheduled in **Exhibit C**, Defendants shall pay by a separate Western Union or wire transfer to each employee in the amount equal to 100 percent of the net back wage amount due to each employee after making the legal deductions for social security and withholding taxes that the Defendants must pay directly to federal and state agencies entitled to such taxes when due.

e. If any of the employees are located within the United States during the monthly payment plan deadlines scheduled in **Exhibit C**, Defendants shall deliver a separate check or money order for each employee in the amount equal to 100 percent of the net back wage amount due to each employee after making the legal deductions for social security and withholding taxes that the Defendants must pay directly to federal and state agencies entitled to such taxes when due.

f. **Seven (7) calendar days** after each monthly payment, Defendants shall deliver to WHD District Director of the Seattle District Office, currently Thomas Silva (silva.thomas@dol.gov), evidence of payment of back wages to each person named in **Exhibit C**.

9. **Seven (7) calendar days** after the last monthly payment deadline scheduled in **Exhibit C** (October 15, 2024), Defendants shall provide to WHD District Director of the Seattle District Office, currently Thomas Silva (silva.thomas@dol.gov), a final list of all employees listed in **Exhibit A**, who could not be located or who refused to accept the payments, their last known address, phone number, social security number (if known and available), WhatsApp contact

1 information, and their gross amounts owed in liquidated damages and back wages. Using the
2 “WHD Back Wage Payment Form – Western Region” at
3 <https://www.pay.gov/public/form/start/77761888>. Defendants shall also deliver to the Wage and
4 Hour Division by **seven (7) calendar days** after the last payment deadline scheduled in **Exhibit**
5 **C, two separate payments**—(1) the total amount in gross liquidated damages and (2) the total
6 amount in gross back wages—for employees listed in **Exhibit A**, who could not be located or who
7 refused payment during the schedules described under **Exhibit B** and **Exhibit C**. The payments to
8 the Wage and Hour Division shall reference Case Number: “1974334.”

9 10. If any monies are not distributed to employees within three (3) years from the date
10 the Acting Secretary received payment from Defendants because of an inability to locate the
11 proper persons or because of their refusal to accept it, the Acting Secretary shall deposit the
12 payment into the Treasury of the United States of America as miscellaneous receipts under 29
13 U.S.C. § 216(c).

14 11. Within **thirty (30) calendar days** of the last monthly payment scheduled in
15 **Exhibit C**, Defendants shall pay to the U.S. Department of Labor **\$25,000.00**, which is designated
16 as a civil money assessment under 29 U.S.C. § 216(e) using the “WHD Civil Money Penalty
17 Payment Form – Western Region” at <https://www.pay.gov/public/form/start/77743734>. The
18 payment shall reference Case Number “1974334.”

19 12. Within **sixty (60) calendar days** of the last monthly payment scheduled in **Exhibit**
20 **C**, Defendants shall pay to the U.S. Department of Labor **\$15,000.00**, which is designated as a
21 civil money assessment under 29 U.S.C. § 1853 using the “WHD Civil Money Penalty Payment
22 Form – Western Region” at <https://www.pay.gov/public/form/start/77743734>. The payment shall
23 reference Case Number “1974334.”
24

1 13. In the event of any default in the timely payment due hereunder, a post-judgment
2 interest at the rate of 10% per annum shall be due and payable upon the Acting Secretary's
3 sending by ordinary mail a written demand to the last business address of Defendants then known
4 to the Acting Secretary with electronic copies concurrently e-served on Defendants and, if
5 applicable, their counsel.

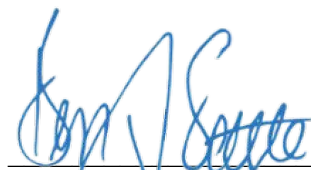
6 **IT IS FURTHER ORDERED** that the filing, pursuit, and/or resolution of this proceeding
7 with the filing of this Consent Judgment shall not act, as or be asserted as, a bar to any action
8 under Section 16(b) of the FLSA, 29 U.S.C. § 216(b), and Section 503, 29 U.S.C. § 1854, as to
9 any employee not named in the attached Exhibit A, nor any employee named in the attached
10 Exhibit A for the periods not stated therein.

11 **IT IS FURTHER ORDERED** that each Party shall bear their own fees and other
12 expenses, including court costs, incurred by such Party in connection with any stage of this
13 proceeding, including but not limited to attorneys' fees, which may be available under the Equal
14 Access to Justice Act, as amended.

15 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this action for
16 purposes of enforcing compliance with the terms of this Consent Judgment.

17
18 **IT IS SO ORDERED.**

19 Dated this 26th day of March, 2024.

20
21 

22 _____
23 BENJAMIN H. SETTLE
24 United States District Judge

1 *For the Plaintiff:*


2 SEEMA NANDA
Solicitor of Labor
3 MARC A. PILOTIN
Regional Solicitor
4 ANDREW J. SCHULTZ
Counsel for Wage and Hour
5

6 */s/ Jennifer L. Sta.Ana*

Date: March 21, 2024


7 JENNIFER L. STA.ANA
Trial Attorney
8 Office of the Solicitor
U.S. Department of Labor
9 *Attorneys for the Acting*
Secretary of Labor
10

11 *For the Defendants:*

12
13 
14 CONTINENTAL FLORAL, LLC
A Washington Corporation

Date 3-18-2023

15 By: James Milgard Jr
16 Title: CEO
17

18
19 
20 JIM MILGARD, JR.
An Individual

Date: 3-18-2023

21
22
23 SCOTT SCHAUER
An Individual
24

Date: _____

1 *For the Plaintiff:*

2 SEEMA NANDA
Solicitor of Labor
3 MARC A. PILOTIN
Regional Solicitor
4 ANDREW J. SCHULTZ
Counsel for Wage and Hour
5

6

Date: _____

7 JENNIFER L. STA.ANA
Trial Attorney
8 Office of the Solicitor
U.S. Department of Labor
9 *Attorneys for the Acting
Secretary of Labor*
10

10

11 *For the Defendants:*

12

13

Date _____

14 CONTINENTAL FLORAL, LLC
A Washington Corporation
15

15

16 By: _____

16

17 Title: _____

17

18

19

Date: _____

20 JIM MILGARD, JR.
An Individual
21

21

22

23 SCOTT SCHAUER
An Individual
24

Date: 3/18/2024

24

1 *Approved as to Form:*

2

3

4 /s/Gregor A. Hensrude

Date: March 15, 2024

GREGOR A. HENSRUDE

Klinedinst Seattle

5 *Attorneys for Defendants*

Continental Floral LLC,

6 *Jim Milgard, Jr., Scott Schauer*

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