

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PATRICK PIZZELLA, Acting Secretary of
Labor, United States Department of Labor,

Plaintiff,

v.

MAVILIS, LLC d/b/a COACHMEN'S
LODGE; J & D PIZZA, INC. d/b/a BRIGGS
CORNER PIZZERIA; NNMW, INC. d/b/a
MEDITERRANEAN GRILL & PIZZERIA;
VASSILIOS NICOLOS; and NIKOLAOS
NICOLOS,

Defendants.

Civil Action No. 1:19-cv-11833

CONSENT JUDGMENT AND ORDER

Plaintiff Patrick Pizzella, Acting Secretary of Labor, United States Department of Labor (the "Secretary") has filed a Complaint in this case under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. (the "Act"), and Defendants Mavilis, LLC d/b/a Coachmen's Lodge; J & D Pizza, Inc. d/b/a Briggs Corner Pizzeria; and NNMW, Inc. d/b/a Mediterranean Grill & Pizzeria (collectively, the "Restaurants"), and Defendants Vassilios Nicolos and Nikolaos Nicolos, have received a copy of that Complaint and waived service of process. Defendants also acknowledge the assessment by the Secretary of civil money penalties and have received notice and service of the issuance the civil money penalties, and waive exception to those civil money penalties, and have agreed to pay civil money penalties in the amount of \$36,448.00 plus interest, all under Section 16(e) of the Act, 29 U.S.C. § 216(e), and 29 C.F.R. §§ 578.1–578.4 and 580.1–580.18. The Court finds that it has jurisdiction to enter this

Consent Judgment and Order (the “Consent Judgment”), and Plaintiff and Defendants agree to its terms.

It is, therefore, ORDERED, ADJUDGED, and DECREED that Defendants, their agents, servants, employees, and all persons acting or claiming to act on their behalf and interest be, and hereby are, permanently enjoined and restrained from violating the provisions of the Act in any of the following manners:

1. Defendants shall not, contrary to Sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), employ any 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, for workweeks longer than forty hours, unless such employees receive compensation for their employment in excess of forty hours at a rate not less than one and one-half times the employees’ regular rates of pay.

2. Defendants shall not fail to make, keep, and preserve records of 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, 29 U.S.C. § 211(c), and found in Title 29, Part 516 of the Code of Federal Regulations.

3. Defendants shall not, contrary to Section 15(a)(3) of the Act, 29 U.S.C. § 215(a)(3), discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, has testified or is about to testify in any such proceeding, or has otherwise engaged in protected activity under the Act.

Further, the Court, finding that the employees are due compensation in the amount of \$355,944.68 (inclusive of gross overtime back wages and liquidated damages), as shown on attached Exhibit A1, which is incorporated in and made a part hereof, it is ORDERED, ADJUDGED, and DECREED that Defendants are restrained from withholding payment of said overtime compensation, and are ordered, jointly and severally, to pay said liquidated damages, plus interest, in accordance with the terms set forth herein. Defendants represent that, to the best of their knowledge and following diligent review and inquiry, they have been in compliance with the Act since March 1, 2019. In agreeing to resolve the amount of back wages and liquidated damages in this case, Plaintiff has relied on this representation and, accordingly, the back wage and liquidated damages provisions of this Consent Judgment shall have no effect upon any back wages and liquidated damages which may have accrued since that date.

The back wage and liquidated damages provisions of this Consent Judgment shall be deemed satisfied when Defendants deliver to Plaintiff, in accordance with the installment payments and dates set forth in the schedule contained in Exhibit B1 attached hereto, payments totaling \$177,972.34 in gross back wages, plus interest, from which deductions for Defendants' employees' share of social security and federal withholding taxes will be made by the United States Department of Labor, with no deduction for the employees' state withholding tax, and separate payments totaling \$177,972.34 in liquidated damages, plus interest, none of which is subject to deductions. Defendants, jointly and severally, shall further pay the employers' share of FICA to the appropriate authorities for the back wages paid pursuant to this Consent Judgment after presentation of the United States Department of Labor's quarterly summary of employee payments made.

To comply with the payment provisions set forth above related to back wages and liquidated damages, Defendants may pay online by ACH transfer, credit card, debit card, or digital wallet by going to <https://pay.gov/public/form/start/77689032> or by going to <http://www.pay.gov> and searching for WHDBWNE. Defendants also have the option to provide to the Secretary certified checks, bank checks, or money orders made payable to “Wage and Hour Division—Labor,” and those checks or money orders shall be mailed to:

U.S. Department of Labor
Wage and Hour Division
Northeast Region
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317
Attention: William Schweizer

Checks or money orders shall have Case Nos. 1864571, 1867011, and 1867013 written on the face of the checks or money orders. The first payment will be due on before August 27, 2019, as set forth in the attached Exhibit B1. Payments will first be allocated to the liquidated damages plus interest and second to the back wages plus interest. Plaintiff shall distribute all back wages and liquidated damages to the employees listed in Exhibit A1.

It is also ORDERED, ADJUDGED, and DECREED that Defendants shall pay to Plaintiff, jointly and severally, the civil money penalties issued pursuant to Section 16(e) of the Act, 29 U.S.C. § 216(e), and 29 C.F.R. § 578.1–578.4, in the amount of \$36,448.00, plus 1% interest. The civil money penalty portion of this Consent Judgment will be deemed satisfied when Defendants deliver to Plaintiff \$36,448.00 in civil money penalties, plus interest. Such payment shall be made no later than August 27, 2020.

To comply with the civil money penalty payment provisions set forth above, Defendants may pay online by ACH transfer, credit card, debit card, or digital wallet by going to

<https://pay.gov/public/form/start/77734516> or by going to www.pay.gov and searching “WHD CMP Payment - NE Region.” Defendants also have the option to provide to the Secretary a certified check, bank check, or money order, and that check or money order shall be mailed to:

U.S. Department of Labor
Wage and Hour Division
Northeast Region
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317
Attention: William Schweizer

A check or money order shall be made payable to “Wage and Hour Division—Labor” with Case Nos. 1864571, 1867011, and 1867013 written on the face of the check or money order.

If Defendants pay any of the amounts in this Consent Judgment by check or money order, a copy of said checks or money orders shall also be mailed to the following address: U.S. Department of Labor, Wage and Hour Division, JFK Federal Building, 15 New Sudbury Street, Room 525, Boston, Massachusetts 02203, Attention: Assistant District Director.

On or before ten days from the parties’ execution of this Consent Judgment, Defendants shall deliver to the United States Department of Labor at the Wage and Hour Division’s Boston, Massachusetts address set forth above, a statement showing the following: employers’ Federal ID number(s), the name of each employee listed in Exhibit A1, and each employee’s current address and social security number (to the extent currently known by Defendants).

When recovered wages and/or liquidated damages have not been claimed by an employee within three years, because of inability to locate the employee or because of the employee’s refusal to accept such sums, Plaintiff shall deposit the wages and/or liquidated damages into the United States Treasury as miscellaneous receipts pursuant to 29 U.S.C. § 216(c).

Defendants shall not, under any circumstances, solicit repayment of any amount paid to any employee in connection with this Consent Judgment. In the event any such amount is received from any employee, Defendants shall immediately remit such amount to the United States Department of Labor at the Philadelphia, Pennsylvania address set forth above.

It is further ORDERED, ADJUDGED and DECREED that each party shall bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

Nothing in this Consent Judgment precludes the Secretary from using evidence discovered in the investigation that led to the Complaint in this case in any future investigation, enforcement action, or legal action.

SO ORDERED, this 3^d day of September, 2019.

William M. Young
United States District Judge
District of Massachusetts

FOR DEFENDANTS:

Mavilis, LLC d/b/a Coachmen's Lodge
J & D Pizza, Inc. d/b/a Briggs Corner Pizzeria
NNMW, Inc. d/b/a Mediterranean Grill &
Pizzeria
Vassilios Nicolos
Nikolaos Nicolos

/s/ Corinne Hood Greene
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Dated: August 27, 2019