

FILED
CLERK

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

4/17/2023 1:51 pm

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

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

Plaintiff, :

v. :

P & B HEATING & AIR CONDITIONING CORP. : Case No. 23-CV-2582
CRAIG NAPOLITANO, and ROBERT NAPOLITANO, :

Defendants. :

CONSENT ORDER FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel to the parties in the above-captioned action, who are authorized to enter into this Consent Order, and THEREFORE ORDERED that Defendants P & B HEATING & AIR CONDITIONING CORP., CRAIG NAPOLITANO, and ROBERT NAPOLITANO, their officers, agents, employees, successors, and all persons acting or claiming to act in their behalf and interest are enjoined during the pendency of this litigation from:

1. Violating section 15(a)(3) of the Fair Labor Standards Act (the “Act”);
2. Causing any current or former employees due back wages under the October 3, 2022 Back Wage Compliance and Payment Agreement (the “Agreement”) they signed to “kick back” any back wages found due to the employees under the Agreement;
3. Deducting from the current wages due to any current employee for hours worked any back wages paid to that employee pursuant to the Agreement;
4. Harming and threatening harm, terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours,

intimidating, coercing, threatening, or retaliating or discriminating against their employees in any other way, to prevent or otherwise dissuade an employee from speaking with the Department of Labor, accepting back wages owed to them under the Agreement, or engaging in any other protected activity under the Act;

5. Harming and threatening harm, terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against their employees in any other way, based on Defendant's belief that such employee has spoken with the Department of Labor or engaged in any other protected activity under the Act;
6. Obstructing and interfering with the Secretary's supervision of the distribution of back wage payments pursuant to the Agreement;
7. Telling any workers not to cooperate with the Secretary's representatives; instructing any workers to provide incomplete or false information to the Secretary's representatives; or questioning workers about their cooperation or communications with the Secretary's representatives;
8. Terminating any employee without providing at least seven days notice to the Wage and Hour Division of the U.S. Department of Labor prior to any termination; **and**

IT IS FURTHER ORDERED that, to the extent not already done:

9. Defendants immediately return to employees any back wages from the Agreement that employees have kicked back to Defendants;
10. By April 17, 2023, Defendants shall allow representatives of the Secretary to read aloud in English and any other language as necessary to be understood by Defendants' employees, during employees' paid working hours, the following statement to all current employees owed wages under the Agreement, and in the presence of Craig Napolitano, Robert Napolitano, and Todd Napolitano:

The United States Department of Labor reached a settlement with P & B Heating & Air Conditioning Corp. for violations of the Fair Labor Standards Act. Some workers are owed overtime wages for work performed between July 5, 2019 and July 4, 2021.

You have the right to receive the full amount of any back wages owed (after taxes). The back wages from the settlement are not duplicative of the wages you were previously paid by your employer. P & B Heating & Air Conditioning Corp., Craig Napolitano, Robert Napolitano, and Todd Napolitano cannot require you to return any money paid to you as part of the settlement with the U.S. Department of Labor. They

cannot ask you to give up your current or future wages to get money from the settlement, or threaten to retaliate against you, including termination, if you keep any money you get as part of the settlement with the U.S. Department of Labor.

You are protected by the Fair Labor Standards Act and have the right to participate freely in the U.S. Department of Labor's investigation into your employer's workplace practices and employment conditions. You have the right to speak freely with investigators, attorneys, or other officials from the U.S. Department of Labor. Your employer and any person acting on behalf of your employer are prohibited from retaliating against you in any way, including by threatening harm to you or your families, terminating you, reporting you to immigration, or threatening to do any of these things because you spoke with the U.S. Department of Labor or because you refused to turn over any money paid to you as part of the settlement with the U.S. Department of Labor.

The U.S. District Court for the Eastern District of New York has ordered P & B Heating & Air Conditioning Corp., Craig Napolitano, Robert Napolitano, and anyone acting on their behalf not to coerce, retaliate against, threaten to retaliate against, intimidate, or attempt to influence or in any way threaten employees for providing information to the U.S. Department of Labor or for accepting the money paid to you as part of the settlement with the U.S. Department of Labor.

11. By April 13, 2023, Defendants shall mail a hard copy of the above statement, attached hereto as Exhibit A, in English and any other language as necessary to be understood by Defendants' employees, to all current and former employees owed wages under the Agreement at their last known addresses, along with contact information for representatives of the Secretary, as provided in Exhibit A. Within three days of mailing Exhibit A, Defendants shall provide to the Secretary's representatives (but not file on ECF) a signed certification of their compliance with the mailing requirement in this paragraph. Defendants shall include in the certification the full names of all former and current employees, along with their last known addresses, to whom they have mailed the notice.
12. By April 13, 2023, Defendants shall post Exhibit A in English and any other language as necessary, with contact information for representatives of the Secretary as provided in Exhibit A in a conspicuous location at its office.

The restrictions imposed by this Consent Order for Preliminary Injunction are ongoing and shall remain in full force and effect until otherwise ordered by this Court.

Dated: April 13, 2023

CONSENTED TO BY:

For the Secretary of Labor:

/s/Amy Tai
Amy Tai
Senior Trial Attorney
Office of the Solicitor
United States Department of Labor
201 Varick Street, Room 983
New York, NY 10014
(646) 264-3653

For P & B Heating & Air Conditioning Corp., Craig Napolitano, and Robert Napolitano:

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As Attorneys for Defendants

C. Napolitano
Craig Napolitano, individually

C. Napolitano
P & B Heating & Air Conditioning Corp.
By: Craig Napolitano, Owner

R. Napolitano
Robert Napolitano, individually

IT IS SO ORDERED.

DATED: April 17, 2023
Central Islip, New York

/s/ JMA
HONORABLE JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE



**U.S. Department of Labor
Wage and Hour Division**

1400 Old Country Road, Suite 410
Westbury, NY 11590
Tel: (516) 338-1890
www.dol.gov/whd/



NOTICE TO EMPLOYEES

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