

**In the United States District Court
for the District of Kansas**

Case No. 6:23-cv-01094-TC-RES

UNITED STATES DEPARTMENT OF LABOR,

Plaintiff

v.

BBR INVESTMENTS, LLC, DOING BUSINESS
AS SONIC DRIVE-IN, AND RICHARD BENARD,

Defendants

CONSENT ORDER AND JUDGMENT

Plaintiff, Julie A. Su, Acting Secretary of Labor, United States Department of Labor, (“Secretary or “Department of Labor”) has filed a complaint under the Fair Labor Standards Act of 1938 as amended (29 U.S.C. § 201 *et seq.*) (“FLSA”), and Defendants BBR Investments, LLC d/b/a Sonic Drive-In and Richard Benard, individually, (collectively “Defendants”) have appeared by counsel, and waive formal service of process of the Summons and Complaint, waive their Answer and any defenses which they may have, and agree to the entry of this Consent Order and Judgment without contest.

Defendants admit and the Court finds Defendants are engaged in related activities performed through unified operation or common control for a common business purpose and are an “enterprise” under 29 U.S.C. § 203(r) of the FLSA.

Defendants admit and the Court finds Defendants are an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 203(1)(A) of the FLSA.

Defendants admit and the Court finds Defendants are employers as defined in 29 U.S.C. § 203(d) of the FLSA.

Upon motion by the Secretary and for cause shown, it is:

ORDERED, ADJUDGED, AND DECREED, pursuant to section 17 of the FLSA that Defendants, their officers, agents, servants, and all persons acting or claiming to act on their behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 12(c) and 15(a)(4) of the FLSA, in any of the following manners at each of its workplaces:

1. Defendants, their officers, agents, servants, and all persons acting or claiming to act on their behalf and interest, shall not, contrary to the provisions of §§ 12(c) and 15(a)(4) of the Act, 29 U.S.C. §§ 212(c) and 215(a)(4), and any provision of 29 C.F.R. Part 570, engage in oppressive child labor as defined by Section 203(l), including but not limited to, employing any individual in violation of the age, hours, or occupational restrictions set forth in Part 570, at any of Defendants' workplaces.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, pursuant to section 17 of the FLSA that Defendants, their officers, agents, servants, and all persons acting or claiming to act on their behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 11(c) and 15(a)(5) of the FLSA, in any of the following manners:

2. Defendants, their officers, agents, servants, and all persons acting or claiming to act on their behalf and interest, shall make, keep, and preserve records showing the wages, hours and other conditions of work for each of its employees in accordance with 29 U.S.C. § 211(c), including accurate records of the date of birth of all employees under the age of 19 in accordance with 29 C.F.R. § 516.2(a)(3).

3. Defendants will review and enhance their existing policies and training materials for all employees that relate to compliance with the child labor provisions of the FLSA and the regulations promulgated thereunder and will incorporate such changes in their management training program.

4. Defendants shall post this Consent Order and Judgment at each of its workplaces where employee notices are customarily posted, and it shall remain posted for a period of not less than 60 days. Defendants will also provide a copy of this Consent Order and Judgment

to each of its supervisors and managers within 30 days of the enter of this Consent Order and Judgment.

5. Defendant shall impose sanctions, including termination and/or suspension, upon any management personnel responsible for child labor violations after the date of this Consent Order and Judgment.

6. Defendants shall post at each of their workplaces the Department of Labor publication Fact Sheet # 43 regarding the child labor provisions of the FLSA where employee notices are customarily posted.

7. During the 90 days following the issuance of this order, if the Department of Labor learns of any minors employed by Defendants in violation of the child labor provisions of the FLSA and/or of any other alleged violation of this Consent Order and Judgment, the Department of Labor will first notify Defendants of the alleged violation, and Defendants shall have ten days to cure any such violation, before the Department of Labor proceeds with any action for contempt of this Consent Order and Judgment.

8. By entering into this Consent Order and Judgment, the Department of Labor does not waive its right to conduct future investigations of Defendants under the provisions of the FLSA and to take appropriate enforcement action, including assessment of civil money penalties pursuant to 29 U.S.C. § 216(e), with respect to any violations disclosed by such investigations.

It is FURTHER ORDERED that each party shall bear their own costs, fees and other expenses incurred by such party in connection with any stage of this proceeding, but not limited to, attorney fees which may be available under the Equal Access to Justice Act, as amended.

IT IS SO ORDERED.

Date: May 25, 2023

s/ Toby Crouse

Toby Crouse
United States District Judge