

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

:
: **CONSENT JUDGMENT**

Plaintiff,

: Civil Action No. 23-1674-BRM-JBC

v.

ADVANTIX LOGISTICS CORPORATION, and
MICHAEL MORTORANO, Individually,

Defendants.

Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor (the “Secretary”) filed his complaint and Defendants Advantix Logistics Corporation and Michael Mortorano (“Defendants”) waive their answer and agree to the entry of this Consent Judgment without contest. Defendants acknowledge that they have notice of, and understand, the provisions of this Consent Judgment, acknowledge their responsibilities pursuant to this Consent Judgment, and acknowledge that they may be subject to sanctions in contempt of this Court if they fail to comply with the provisions of this Consent Judgment.

The Secretary’s Complaint alleges that from March 2020 through at least March 12, 2022 (the “relevant time period”), Defendants violated sections 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (the “Act” or the “FLSA”) by failing to pay their employees overtime wages and failing to make, keep, and preserve adequate and accurate records.

Defendants submit to the jurisdiction of this Court over them and over the subject matter of this action. Defendants admit that this Court has the authority to enter and enforce this Consent



Judgment and that this Court is the most appropriate venue for any enforcement action which may be required as a result of this Consent Judgment.

Defendants admit that during the relevant time period they were employers of the employees, including those listed on Exhibit A to the Complaint, within the meaning of Section 3(d) of the Act, 29 U.S.C. § 203(d).

Defendants agree that during the relevant time period they are a covered enterprise under sections 3(r) and 3(s) of the Act and that the provisions of the Act apply to Defendants.

Defendants neither admit nor deny the allegations of violations contained in the Complaint.

It is, therefore, upon motion of the attorneys for the Secretary and for good cause shown, ORDERED that:

1. Defendants, their officers, employees, agents, and those persons in active concert or participation with them are permanently enjoined and restrained from violating the provisions of sections 6, 7, 11(c), 15(a)(2), 15(a)(3), and 15(a)(5) of the Act in any of the following manners:

a) Defendants shall not, contrary to section 6 of the Act, pay any of their employees at a rate less than the applicable statutory minimum wage now, or which in the future becomes, prescribed by section 6 of the Act.

b) Defendants shall not, contrary to section 7 of the Act, employ any of their employees for workweeks longer than the hours now, or which in the future become, applicable under sections 7 and 15(a)(2) of the Act, unless the employees receive compensation for their employment in excess of the prescribed hours at rates not less than one and one-half times the employees' regular rates.

c) Defendants shall make, keep, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment.

Defendants shall make available to authorized agents of the Secretary for inspection, transcription, and/or copying, upon their demand for such access, such records of employees and of the wages, hours, and other conditions and practices of employment, as prescribed by regulations issued pursuant to sections 11(c) and 15(a)(5) of the Act and found at 29 C.F.R. Part 516.

d) Defendants shall not discharge, blacklist, demote, suspend, threaten, harass, intimidate, or in any other manner discriminate or retaliate against an employee because the employee engages in or is believed to have engaged in any of the following activities:

- i. Discloses, protests, or threatens to disclose or protest, to a supervisor or to a public agency, any activity, policy, or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the Act or a rule or regulation promulgated pursuant to the Act;
- ii. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing, or inquiry into any alleged violation of the Act or a rule or regulation promulgated pursuant to the Act, by the employer or another employer with whom there is a business relationship; or
- iii. Objects to, or refuses to participate in any activity, policy, or practice that the employee reasonably believes is in violation of the Act or a rule or regulation promulgated pursuant to the Act.

2. Pursuant to the parties' agreement that unpaid overtime back wages are owed and shall be paid to the current and former employees listed on Exhibit A, which is attached hereto, in

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the amount of \$455,000.00, plus an equal additional amount of liquidated damages of \$455,000.00, **for a total amount of \$910,000.00**, plus post-judgment interest, it is:

ORDERED that Defendants and all persons acting on their behalf are enjoined and restrained from withholding the payment of \$455,000.00 in unpaid overtime back wages due Defendants' employees listed in Exhibit A. Further, Defendants shall pay a total of \$455,000.00 in liquidated damages due Defendants' employees listed in Exhibit A, plus \$2,275.00 in post-judgment interest should payment not be made within the first 30 days following entry of this Consent Judgment. These payments shall be made by Defendants in accordance with Paragraph 3 of this Consent Judgment below.

3. To accomplish the requirements of paragraph 2, Defendants shall deliver payment of the back wages and liquidated damages within 90 days of the date of entry of this Consent Judgment, plus \$2,275.00 in interest, if applicable. Defendants shall make payments electronically by ACH transfer, credit card, debit card, or digital wallet on www.pay.gov by following the procedures set forth below:

- a) Visit <https://pay.gov/public/form/start/77689032>.
- b) Select "Continue to Form" and complete the required fields.
- c) The "BW Case Number" is 1959762.
- d) The "Date of Assessment" is the date the Court signs the Consent Judgment.

4. Defendants shall provide to the Secretary the social security number, if such is available, and the last known addresses, email addresses, and phone numbers of each former or current employee listed in Exhibit A within 20 days of the date of execution of this Consent Judgment.

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5. Defendants, and anyone acting on their behalf, shall not directly or indirectly solicit or accept the return or refusal of any sums paid under this Consent Judgment. Defendants, and anyone acting on their behalf, shall not threaten or imply that adverse action will be taken against anyone because of their receipt of funds due under the provisions of this Consent Judgment or the Act. Violation of this Paragraph may subject Defendants to equitable and legal damages, including punitive damages and civil contempt.

6. If Defendants fail to make payment in accordance with Paragraph 3 of this Consent Judgment above, then Defendants consent to the entry of a Writ of Execution, pursuant to Federal Rule of Civil Procedure 69, to enforce the monetary terms of this Consent Judgment. The Secretary may seek such a writ at any time after any such failure to make payment and may represent in filing for such a writ that Defendants consent to its issuance.

7. The Secretary shall distribute Defendants' payments less any legal deductions to the former and current employees, or to their estates, as set forth in Exhibit A. Any amounts of unpaid compensation and liquidated damages not distributed within a period of three years from the date of receipt shall, pursuant to section 16(c) of the Act, be covered into the Treasury of the United States as miscellaneous receipts. Defendants remain responsible for paying the employers' share of any applicable taxes to the appropriate state and federal revenue authorities.

8. Defendants shall display in conspicuous places at their establishments for their employees' viewing the poster "Employee Rights Under the Fair Labor Standards Act" issued by the U.S. Department of Labor. Defendants shall maintain these postings permanently.

9. Neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any employees of Defendants not listed in Exhibit A of this Consent Judgment, be they current or former

employees, to file any action against Defendants under section 16(b) of the Act, or likewise for any current or former employee listed on Exhibit A to file any action against Defendants under section 16(b) of the Act, for violations alleged to have occurred after March 12, 2022.

10. Each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

11. The Court retains jurisdiction over this matter for the purposes of enforcing this Consent Judgment.

SO ORDERED.

DATED: May 4, 2023



UNITED STATES DISTRICT JUDGE

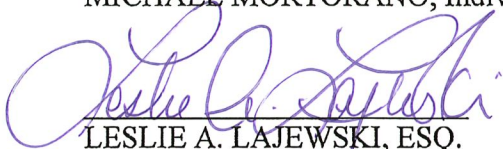
Defendants appeared by the undersigned counsel and hereby consent to the entry of this Judgment.



ADVANTIX LOGISTICS CORPORATION
By: MICHAEL MORTORANO, Owner and President



MICHAEL MORTORANO, Individually



LESLIE A. LAJEWSKI, ESQ.
Ogletree Deakins
10 Madison Avenue, Suite 400
Morristown, NJ 07960
Attorney for Defendants



STATE OF New Jersey)

COUNTY OF Bergen)

:SS:

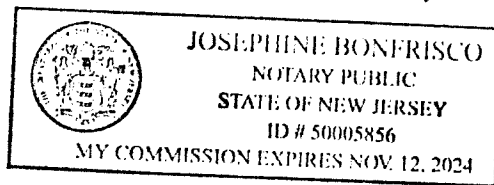
On the 15 day of March 2023 before me came **MICHAEL MORTORANO**, to me known, who, being by me duly sworn, did depose and say that he is a duly authorized officer of **ADVANTIX LOGISTICS CORPORATION**, described in and which executed the foregoing instrument, that he signed his name thereto by like order.

Josephine Bonfrisco
NOTARY PUBLIC

STATE OF New Jersey)

COUNTY OF Bergen)

:SS:



On the 15 day of March 2023 before me came **MICHAEL MORTORANO**, to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Josephine Bonfrisco
NOTARY PUBLIC

