

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

JULIE A. SU, Acting Secretary of Labor, United States Department of Labor, ¹)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 3:22-cv-50141
)	
T.S.T.A., INC. d/b/a Papa G’s, an Illinois corporation, RICK TSAKALIOS, and STEVE TSAKALIOS,)	
)	
Defendants.)	
)	

CONSENT ORDER AND JUDGMENT

Plaintiff, Julie A. Su, Acting Secretary of Labor, United States 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 T.S.T.A., Inc. d/b/a Papa G’s, Rick Tsakalios and Steve Tsakalios, individually, (collectively “Defendants”) having appeared by counsel, 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.

¹ By operation of law, Julie A. Su is substituted sub nom. for former Secretary of Labor, Martin Walsh. See Fed.R.Civ.P. 25(d).

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

Upon motion of attorneys for the Secretary and Defendants 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 7, 11(c), 15(a)(2), 15(a)(3), and 15(a)(5) of the FLSA, in any of the following manners:

1. Defendants shall not, contrary to 29 U.S.C. §§ 207 and 215(a)(2), employ any of their employees including, but not limited to, any of their employees working at T.S.T.A., Inc. d/b/a Papa G's, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, in any workweek when they are engaged in commerce or employed in an enterprise engaged in commerce, within the meaning of the FLSA, for workweeks longer than forty hours, unless said employees receive compensation for their employment in excess of forty hours at a rate equivalent to one and one-half times the regular rate at which they are employed.

2. Defendants shall make, keep, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them including, but not limited to, any of their employees working at T.S.T.A. Inc., d/b/a Papa G's, or at any business location owned, operated, and/or controlled by Defendants, and at any other business location at which their employees perform work, as prescribed by the Regulations issued pursuant to 29 U.S.C. §§ 211(c) and 215(a)(5) and found at 29 C.F.R. Part 516.

Defendants shall make such records available at all reasonable times to representatives of the Plaintiff.

3. Defendants shall provide each employee on each pay date with a pay stub that accurately reflects the employees' full name, pay period dates, total hours paid, regular rate of pay, regular hours worked, overtime hours worked, gross wages, net wages, and all withholding and deductions taken. All pay and deductions must be recorded and maintained whether payments are made by check or in cash.

4. Defendants shall include in the calculation of the regular rate of pay any non-discretionary bonuses paid to employees as described in 29 C.F.R. § 778.211(b), except those as outlined in § 7(e)(1)-(8) of the FLSA. 29 U.S.C. 207(e)(1)-(8). The resulting regular rate shall be used to calculate the applicable overtime rate of pay for all hours past 40 in a workweek by multiplying the regular rate by one and one half.

5. Pursuant to 29 U.S.C. § 215(a)(3), Defendants shall not discharge or take any retaliatory action against any of their current or former employees because the current or former employee engages in any of the following activities:

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

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the FLSA, or a rule or regulation promulgated pursuant to the FLSA.

6. Defendants shall not request, solicit, suggest, or coerce, directly or indirectly, any employee to return or to offer to return to the Defendants or to someone else for the Defendants, any money in the form of cash, check, or any other form, for wages previously due or to become due in the future to said employee under the provisions of this Consent Order and Judgment or the FLSA; nor shall Defendants accept or receive from any employee, either directly or indirectly, any money in the form of cash, check, or any other form, for wages paid to said employee under the provisions of this Consent Order and Judgment or the FLSA; nor shall Defendants discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against any such employee because such employee has received or retained money due to him from the Defendants under the provisions of this Consent Order and Judgment or the FLSA.

For a period of three years after entry of this consent judgment:

7. Defendants shall hire an independent, third-party CPA or IRS enrolled agent knowledgeable of the minimum wage, overtime, and recordkeeping provisions of the FLSA and its regulations to perform three annual audits of Defendants to determine compliance with the FLSA. The audit shall include a review of time and payroll records and recordkeeping practices of the Defendants for compliance, including, but not limited to, proper recordkeeping of hours worked, proper payment of the overtime premium for hours worked in excess of 40 in a workweek and proper payment of the required minimum hourly rate. The aforesaid three audits shall be conducted annually with the initial audit commencing within three months of entry of

the Consent Order and Judgment. The CPA or IRS enrolled agent shall report the findings and recommendations, in writing, to Defendants. If any of the audits determines that any employee was not paid the correct overtime premium or minimum wage, as required by the FLSA, Defendants shall pay all wages due and owing within 15 days of the audit's completion and note corrective action taken in the audit reports. Defendants shall make the audit reports available for review and copying to the Wage and Hour Division, U.S. Department of Labor, upon request.

8. Defendants shall include in their employee handbook a notice to employees about the FLSA's minimum wage and overtime requirements, and include contact information for employees to contact the Wage and Hour Division.

9. Defendants shall provide all employees with a copy of the U.S. Department of Labor, Wage and Hour Division's *Handy Reference Guide to the Fair Labor Standards Act*, *Employee Rights Under the Fair Labor Standards Act*, *Fact Sheet #22: Hours Worked under the FLSA*, *Fact Sheet #23: Overtime Pay Requirements of the FLSA*, *Fact Sheet #56C: Bonuses under the Fair Labor Standards Act (FLSA)*, and *Fact Sheet #56A: Regular Rate of Pay*, in English and Spanish, which are available on the DOL website. Defendants shall provide these materials within 30 days of employment or, for current employees, within 30 days of entry of the Consent Order and Judgment.

10. This Consent Order and Judgment shall be posted at Defendants' establishment, at a location where employee notices are customarily posted, and shall remain posted for a period of not less than 6 months.

11. Defendants shall comply with the FLSA at all current and future establishments.

FURTHER, JUDGMENT IS HEREBY ENTERED, pursuant to section 16(c) of the Act, in favor of the Secretary and against Defendants in the total amount of \$111,000.

12. The Secretary shall recover from Defendants the total sum of \$111,000 in a single payment. That amount shall consist of \$52,504 in unpaid overtime compensation covering the period from February 3, 2019 to January 30, 2022, for Defendants' current and former employees whose names are listed in the attached Exhibit A, the additional sum of \$52,504 in liquidated damages, and \$5,992.00 in assessed civil money penalties.

- a. At the time of Defendants' execution of this Consent Order and Judgment, Defendants shall deliver payment in the amount of \$111,000 by ACH transfer, credit card, debit card, or digital wallet at <https://www.pay.gov/public/form/start/77692637> or www.pay.gov and searching "WHD Back Wage Payment – Midwest Region."
- b. Defendants shall also furnish to the Secretary the full name, last-known address, last-known phone number, and social security number for each employee named in Exhibit A.
- c. Upon receipt of full payment from Defendants, representatives of the Secretary shall distribute such amounts, less appropriate deductions for federal income withholding taxes and the employee's share of the social security (F.I.C.A.) tax, to the employees or their legal representative as their interests may appear, in accordance with the provisions of section 16(c) of the FLSA. Defendants remain responsible for the employer's share of F.I.C.A. arising from or related to the back wages distributed by the Secretary.
- d. Neither Defendants nor anyone on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Consent Order and Judgment. Any such amount shall be immediately paid to the Secretary for deposit as above, and Defendants shall have no further obligations with respect to such returned monies.
- e. Any monies not disbursed by the Department of Labor after three years from the date of payment by Defendants, because of the inability to locate the proper persons or because

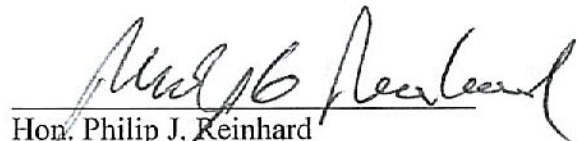
of their refusal to accept payment, shall be deposited into the Treasury of the United States as miscellaneous receipts, pursuant to section 16(c) of the FLSA.

- f. The provisions of this Consent Order and Judgment shall not in any way affect any legal right of any individual not named on Exhibit A, nor shall the provisions in any way affect any legal right of any individual named on Exhibit A, to file any action against Defendants for any violations alleged to have occurred outside the relevant period.

13. By entering into this Consent Order and Judgment, Plaintiff does not waive her 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.

Dated this 3rd day of August, 2023.


Hon. Philip J. Reinhard
United States District Judge

Entry of this judgment
is hereby consented to:

For Defendants:

Date 08/01/2023

T.S.T.A. Inc. d/b/a Papa G's

/s/ Steve Tsakalios

Steve Tsakalios
Its President/Owner

/s/ Rick Tsakalios

Rick Tsakalios
Its Secretary/Owner

/s/ Steve Tsakalios

Steve Tsakalios, Individually

/s/ Rick Tsakalios

Rick Tsakalios, Individually

/s/ Ethan Zelizer

Ethan G. Zelizer (#6280096)
HR Law Counsel, LLC
29 South Webster Street
Suite 350-C, Naperville, IL 60540
Phone: 630.551.8374
Fax: 630.566.0705
E-Mail: ethan@hrlawcounsel.com

*Attorney for Defendants, T.S.T.A. Inc., Steve
Tsakalios, and Rick Tsakalios*

APPROVED:

SEEMA NANDA
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

/s/ Julia Napier

JULIA M. NAPIER
Trial Attorney
U.S. Department of Labor
Office of the Solicitor
230 South Dearborn Street, Rm. 844
Chicago, Illinois 60604
T: (312) 353-7677
Napier.julia.m@dol.gov

*Attorneys for Plaintiff JULIE A. SU,
Acting Secretary of Labor, United States
Department of Labor*

EXHIBIT A²

<u>First Name</u>	<u>Last Name</u>	<u>Back Wages</u>	<u>Liquidated Damages</u>
ENRIQUE	(unknown)	\$470.25	\$470.25
JOSE	DORADO	\$1,225.25	\$1,225.25
JUAN	ESCARENO	\$14,610.13	\$14,610.13
ABEL	GONZALEZ	\$1,357.50	\$1,357.50
EDUARDO	GUTIERREZ	\$10,168.50	\$10,168.50
PEDRO	PEREZ	\$2,148.38	\$2,148.38
GERARDO	SORIANO	\$12,402.50	\$12,402.50
FRANCISCO	ZARATE	\$17,630.50	\$17,630.50
Totals:		\$60,013.01	\$60,013.01
Back Wage and Liquidated Damage Totals:		\$120,026.02	

² The dollar amounts included here represent the total back wages and liquidated damages due to employees. The Secretary shall distribute a proportionally reduced amount to each employee consistent with the settlement amount indicated in this consent order and judgment.