

ORIGINAL

FILED
UNITED STATES DISTRICT COURT IN CLERK'S OFFICE
FOR THE EASTERN DISTRICT OF NEW YORK DISTRICT COURT E.D.N.Y.

★ OCT 04 2018 ★

BROOKLYN OFFICE

R. ALEXANDER ACOSTA,
Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

EXCLUSIVE HOSPITALITY LLC,
KRISHNA HOSPITALITY LLC, STERLING
HOSPITALITY, LLC, KAUSHIK PATEL,
Individually and as an Officer, and
CHANDRESH PATEL, Individually and as an
Officer,

Defendants.

Consent Judgment

Civil Action No. 18-cv-2882
(FB/RER)

CONSENT JUDGMENT

Plaintiff, R. ALEXANDER ACOSTA, the Secretary of Labor, has filed his complaint and Defendants EXCLUSIVE HOSPITALITY LLC, KRISHNA HOSPITALITY LLC, STERLING HOSPITALITY, LLC, KAUSHIK PATEL, and CHANDRESH PATEL ("Defendants") appeared by Counsel, 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 will be subject to sanctions in contempt of this Court if they fail to comply with the provisions of this Consent Judgment.

1. The Secretary's Complaint alleges that 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.

2. 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 Order and that this Court is the most appropriate venue for any enforcement action which may be required as a result of this Order,
3. Defendant Kaushik Patel admits that from at least January 2015 through May 15, 2018 (“the relevant time period”), he was an employer, within the meaning of Section 3(d) of the Act, 29 U.S.C. § 203(d), of housekeeping, front desk, and maintenance employees at 53-05 Queens Boulevard, 40-34 Crescent Street, and 38-30 Crescent Street in Queens.
4. Defendant Chandresh Patel admits that from at least January 2015 through May 15, 2018 (“the relevant time period”), he was an employer, within the meaning of Section 3(d) of the Act, 29 U.S.C. § 203(d), of housekeeping, front desk, and maintenance employees at 53-05 Queens Boulevard, 40-34 Crescent Street, and 38-30 Crescent Street in Queens.
5. The Secretary alleges that Defendants jointly employed their employees from January 2015 through at least May 15, 2018 (the “relevant time period”).
6. The Secretary alleges that Defendants failed to keep accurate wage and hour records during the relevant time period.

7. The Secretary alleges that during the relevant time period, Defendants failed to pay their employees overtime at one and one-half the regular hourly rate for hours in excess of forty per week.
8. The Secretary alleges that during the relevant time period, Defendants failed to total the hours worked by certain of their employees at all worksites as required by Section 7 of the Act and 29 C.F.R. Part 778.

It is, therefore, upon motion of the attorneys for Plaintiff and for cause shown

ORDERED that:

I. Defendants, their officers, employees, agents, and all persons acting or claiming to act in Defendants' behalf and interest, be, and 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 Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 et seq.) ("the Act"), in any of the following manners:

1. Defendants shall not, contrary to Section 7 of the Act, employ any of their employees in any workweek 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, as required by 29 C.F.R. Part 778.
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 as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 C.F.R. Part 516.

3. Defendants shall not discharge or take any retaliatory action against an employee, including soliciting the repayment of overtime compensation paid to any employee, because the employee engaged in or is believed to have engaged in any of the following activities:

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

4. Defendants, along with their officers, agents, and managers, shall not tell any of their employees not to speak to representatives of the United States Department of Labor ("U.S. Department of Labor"), or tell any of their employees to provide untruthful information to the U.S. Department of Labor regarding the terms or conditions of their employment, or otherwise obstruct or interfere with any investigative activities of the U.S. Department of Labor.

II. The Court finding that unpaid overtime back wages are owed and shall be paid to the employees listed on Exhibit A, which the Secretary shall file with the Court no later than thirty (30) days after entry of the Consent Judgment, in the amount of \$360,543.00, plus an equal additional amount of liquidated damages of \$360,543.00, and Civil Money Penalties in the amount of \$28,914.00, for a total amount of \$750,000.00, plus post-judgment interest pursuant to the Current Value of Funds Rate, Public Law 95-147, 91 Stat. 1227 (Oct. 28, 1977), calculated at the rate of 1% per annum, it is:

ORDERED that Defendants and all persons acting on their behalf are enjoined and restrained from withholding the payment of \$360,543.00 in unpaid overtime back wages due Defendants' employees listed in Exhibit A. Further, Defendants shall pay a total of \$360,543.00 in liquidated damages due Defendants' employees listed in Exhibit A and \$28,914.00 in civil money penalties for recordkeeping and overtime violations of the Act, plus total post-judgment interest of \$625.17. These payments shall be made by Defendants in accordance with Paragraph III of this Consent Judgment.

III. The provisions of this Consent Judgment relative to back wages payments, liquidated damages payments, and civil money penalties shall be deemed satisfied when Defendants fully comply with the terms of payment set forth below:

1. Payment of the monies owed shall be made beginning with a down payment of \$346,086.00 in liquidated damages and \$28,914.00 in civil money penalties (for a total of \$375,000.00) made within ten (10) days of the entry of this Consent Judgment. The remaining balance of \$375,000.00, plus post judgment interest calculated at 1% per annum, shall be made in three (3) separate installments

following entry of the Consent Judgment. The three (3) installment payments shall be made according to the following schedule:

- a. The first installment payment of \$125,208.39, consisting of back wages liquidated damages and post-judgment interest, shall be made by **November 2, 2018**;
- b. The second installment payment of \$125,208.39, consisting of back wages and post-judgment interest shall be made by **December 2, 2018**;
and
- c. The third installment payment of \$125,208.39, consisting of back wages and post-judgment interest, shall be made by **January 2, 2019**.

2. Defendants shall make the payments by completing fully either the procedures in subparagraph (a) below (for electronic payments via www.pay.gov) or subparagraph (b) below (for payments by cashier/certified check):

- a. For electronic payments in accordance with the amounts and due dates set forth in Paragraph III.1.a-c, visit www.pay.gov and perform the following:
 1. Open the "Find an Agency" tab and click on "L" and then "Labor (DOL): Wage and Hour Division (WHD)."
 2. To pay back wages and liquidated damages, click on the "Continue to Form" tab under "WHD Back Wage Payment Form - Northeast Region."
 - a. Select "Continue to Form" and complete the required fields.

- b. The "BW Case Number" is Case No. 1826348.
 - c. The "Date of Assessment" is the date of the Order.
 3. To pay civil money penalties, click on the "Continue to Form" tab under "WHD Civil Money Penalty Payment Form Northeast Region."
 - a. Select "Continue to Form" and complete the required fields.
 - b. The "CMP Case Number" is Case No. 1826348.
 - c. The "Date of Assessment" is the date of the Order.
- b. For payments by cashier or certified check in accordance with the amounts and due dates set forth in Paragraph III.1.a-c:
 1. All installment payment(s) shall be in separate cashier or certified checks made payable to "Wage and Hour Division - Labor" with "Case Nos. 1817662, 1826345, and 1826348" written on the face of each check, and, in accordance with the amounts and allocations required by Paragraph III.a.i-iii: (a) "Back Wages" written on the face of each check designated as back wages (including interest); (b) "Liquidated Damages" written on the face of each check designated as liquidated damages (including interest); and (c) "Civil Money Penalties" written on the face of the check designated as civil money penalties.
 2. Defendants shall send all checks to:

United States Department of Labor – Wage & Hour Division
The Curtis Center, Suite 850 West
170 S. Independence Mall West
Philadelphia, PA 19106-3317

3. Defendants shall send a copy of each payment and cover letter to:

Debbie Lau, Assistant District Director
U.S. Department of Labor, Wage and Hour Division
Queens Area Office
68-60 Austin Street, 6th Floor
Forest Hills, NY 11375

IV. The Secretary shall distribute Defendants' back wage and liquidated damages payments, including interest and less any legal deductions, to the former and current employees, or to their estates, in the amounts 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 local, state, and federal revenue authorities.

V. Defendants shall provide to the Secretary the social security number, if such is available, and the last known addresses of each former or current employee listed in Exhibit A within 20 days after the Secretary files Exhibit A. Defendants shall also use their best efforts to determine and to provide the Secretary the full name (and corresponding social security number and last known address) of any employee or former employee in Exhibit A for whom the Secretary has an incomplete name.

VI. Defendants, and anyone acting on their behalf, shall not in any way directly or indirectly, demand, require or accept any of the back wages or liquidated damages from any person listed on Exhibit A. Defendants, and anyone acting on their behalf, shall not threaten or

imply that adverse action will be taken against any person because of his or her 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.

VII. With respect to the payments required by this Consent Judgment, a seven (7) calendar-day grace period shall be allowed for receipt of each payment. In the event that the Secretary does not receive the payment by the eighth calendar day after which it is due, the Secretary's representatives will notify defendants through their attorney, Ian Siminoff, Esq. by email at isiminoff@foxrothschild.com. Defendants are responsible for timely notifying the Secretary of any change in the identity or contact information of their attorney. If the Secretary does not receive payment within ten (10) days of such notification, then the total amount due under this Consent Judgment, less any amounts already received by the Secretary pursuant to this Consent Judgment, shall become due immediately and the Court will appoint a Receiver from a list of names offered by the Secretary or may appoint another Receiver at its discretion. No action or non-action by the Secretary shall constitute a waiver of this paragraph.

VIII. In the event a Receiver is appointed, it is ORDERED that:

1. Defendants shall cooperate with the Receiver in all respects, and shall provide to the Receiver any and all reasonable information which the Receiver may require to carry out its appointment and in accordance with the authority given to the Receiver pursuant to applicable law at the time of appointment.
2. All the expenses of the accountant or Receiver shall be borne solely by Defendants.
3. The Receiver shall serve until the payment of the monetary terms of this Consent Judgment are satisfied.

4. The Receiver shall have full authority to: collect Defendants' assets and report the Receiver's findings to the Court and the parties; to redeem and/or liquidate Defendants' assets and turn over the proceeds to the Secretary; if the asset is a debt that is due, collect it and turn over the proceeds to the Secretary; to analyze all indebtedness and where deemed appropriate seek restructuring; to analyze all transfers of Defendants' assets; to prevent waste or fraud; and to do all acts and take all measures necessary or proper for the efficient performance of the Receiver's duties under this Consent Judgment.

IX. Within fifteen (15) days of the entry of this Consent Judgment, Exclusive Hospitality, LLC (Quality Inn), Krishna Hospitality, LLC (Country Inn), and Sterling Hospitality, LLC (Ramada Inn) (hereinafter, "the Corporate Defendants") shall display in conspicuous places throughout 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.

X. Within fifteen (15) days of the entry of this Consent Judgment, the Corporate Defendants shall post the notices in Exhibit B at each location as specified in each notice, in the following languages, which shall be provided by the U.S. Department of Labor: English, Hindi, Punjabi, Urdu, Spanish, and Chinese. Defendants shall maintain this posting for a period of one (1) year from entry of this Consent Judgment. Further, within fifteen (15) days of the Secretary filing Exhibit A, the Corporate Defendants shall also mail a copy of Exhibit B to each of their former employees listed in Exhibit A at their respective home addresses as contained in Defendants' records.

XI. The Corporate Defendants shall provide each of their current employees "Fact

Sheet #77A: Prohibiting Retaliation Under the Fair Labor Standards Act (FLSA),” as issued by the U.S. Department of Labor, in the language of the employee’s choosing among the versions available on the U.S. Department of Labor website (English, Hindi, Punjabi, Urdu, Spanish, Chinese, etc.). The Corporate Defendants shall provide this Fact Sheet to their current employees within fifteen (15) days of the entry of this Consent Judgment. Thereafter, the Corporate Defendants shall provide this Fact Sheet to new hires hired by the Corporate Defendants during the one (1) year period following the Court’s entry of this Consent Judgment, at or around the time of hire, in the language of the employee’s choosing among the versions available on the U.S. Department of Labor website (English, Hindi, Punjabi, Urdu, Spanish, Chinese, etc.).

XII. Defendants shall implement the following provisions to ensure their compliance with the Act:

1. Within thirty (30) days of the date of the entry of this Consent Judgment, the Corporate Defendants shall amend their pay and recordkeeping practices to comply with the Act, including as follows:
 - a. Defendants shall record employees’ daily start and stop times.
 - b. Defendants shall not in any way alter employees’ recorded start and stop times in any way that does not accurately reflect their actual hours worked.
 - c. Defendants shall not request, require, or otherwise cause employees to perform work “off the books” (not recorded in the time records).
 - d. Defendants shall pay wages, including any overtime premium as required by Section 7 of the Act and 29 C.F.R. Part 778, to employees based on the

hours they worked during each applicable pay period.

- e. In addition to complying with all other requirements of 29 C.F.R. Part 778, Defendants shall total all the hours worked (whether at the same location or more than one location) by any of their employees at one or more locations in that workweek and pay overtime compensation for each hour worked in excess of the maximum hours applicable under Section 7(a) of the Act.
- f. Defendants shall ensure that their time and payroll records accurately reflect all hours worked and amounts paid to their employees, whether employees are paid by check, cash, or some combination.
- g. Defendants shall ensure that their time and payroll records include all information required by 29 C.F.R. 516.2.
- h. Upon request from any non-exempt employee, the Corporate Defendants shall promptly provide the employee with a copy of their signed timesheets reflecting the hours the employee worked each day in the fourteen (14) days preceding the employees' request ("Work Hours Summary"). Corporate Defendants shall give each employee the opportunity to review his or her Work Hours Summary and write in corrections if necessary.
- i. Corporate Defendants shall maintain all time and payroll records for a period of not less than three (3) years.
- j. No later than December 31, 2018, Defendants shall provide to the Wage and Hour Division a complete sample, for a single continuous two-week

period, of time records and payroll records for all Corporate Defendants' then current employees, that complies with this Paragraph XII and with the Regulations found at 29 C.F.R. Part 516, as amended from time to time. The records shall be sent to Debbie Lau, Assistant District Director, U.S. Department of Labor, Wage & Hour Division, Queens Area Office, 68-60 Austin Street, 6th Floor, Forest Hills, NY 11375.

2. Defendants shall not treat any employees as exempt from the overtime compensation requirements of the Act pursuant to the exemptions set forth in Section 13(a)(1) of the Act, unless Defendants ensure that such employees qualify for the exemptions claimed, based on the employees' actual job duties and method of compensation, as prescribed by the Regulations found at 29 CFR Part 541.

XIII. 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 on 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 of this Consent Judgment to file any action against Defendants under section 16(b) of the Act for any violations alleged to have occurred after August 1, 2018.

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

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

DATED: October 3, 2018
Brooklyn, New York

SO ORDERED:

s/Frederic Block, USDJ
HONORABLE FREDERIC BLOCK
UNITED STATES DISTRICT JUDGE

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

BY: Kaushik M. Patel
KAUSHIK PATEL, Individually

Kaushik M. Patel
KAUSHIK PATEL, Member

EXCLUSIVE HOSPITALITY LLC

KRISHNA HOSPITALITY LLC

STERLING HOSPITALITY, LLC

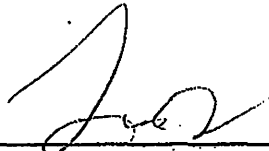
Chandresh M. Patel
CHANDRESH PATEL, Individually

Chandresh M. Patel
CHANDRESH PATEL, Member

EXCLUSIVE HOSPITALITY LLC

KRISHNA HOSPITALITY LLC

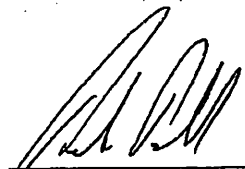
STERLING HOSPITALITY, LLC



IAN W. SIMINOFF, ESQ.
Fox Rothschild LLP
49 Market Street
Morristown, NJ 97960
(973) 994-7507
isiminoff@foxrothschild.com
Attorney for Defendants

STATE OF New York)
COUNTY OF Queens) :SS:

On the 13 day of September, 2018 before me came KAUSHIK PATEL, to me known, who, being by me duly sworn, did depose and say that he is a duly authorized member of Exclusive Hospitality LLC, Krishna Hospitality LLC, and Sterling Hospitality, LLC, described in and which executed the foregoing instrument, that he signed his name thereto by like order.

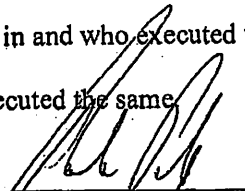


NOTARY PUBLIC

ROBERT PEHNKE JR.
Notary Public, State of New York
No 01PE3050880
Qualified in Nassau County
Commission Expires June 30, 2019

STATE OF New York)
COUNTY OF Queens) :SS:

On the 13 day of September, 2018 before me came KAUSHIK PATEL, 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.



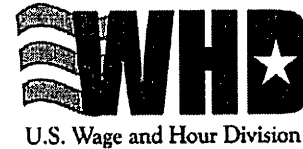
NOTARY PUBLIC

ROBERT PEHNKE JR.
Notary Public, State of New York
No 01PE3050880
Qualified in Nassau County
Commission Expires June 30, 2019

EXHIBIT B



**U.S. Department of Labor
Wage and Hour Division**
68-60 Austin Street, 6th Floor
Forest Hills, NY 11375
Tel: (718) 834-2090
www.dol.gov/whd/



NOTICE TO EMPLOYEES

Your employer has settled a lawsuit with the U.S. Department of Labor and entered into a settlement agreement, which has been approved by a judge. The agreement requires your employer to pay money to some of you who worked at Exclusive Hospitality LLC (Quality Inn), Krishna Hospitality LLC (Country Inn), Sterling Hospitality, LLC (Ramada Inn) from January 1, 2015 through August 1, 2018. The money will be distributed directly by the U.S. Department of Labor. Please call the U.S. Department of Labor at (718) 834-2090 to update your contact information.

If you receive money from the settlement, you are entitled to keep this money. It is against the law for Kaushik Patel, Chandresh Patel, or any person acting on behalf of Exclusive Hospitality LLC (Quality Inn), Krishna Hospitality LLC (Country Inn), Sterling Hospitality, LLC (Ramada Inn) to ask for this money back or to take it out of your pay.

It is also against the law for your employer to fire, threaten to fire or call law enforcement or immigration authorities, reduce your hours, or discriminate against you in any other way for accepting settlement money, providing information to the U.S. Department of Labor, and/or complaining about not receiving minimum wage or overtime for the hours that you worked.

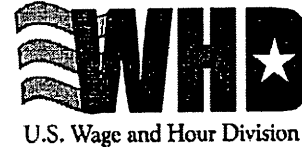
If you have not been paid for all of your hours worked, or if you have been asked to return your settlement money, or retaliated against, please call the U.S. Department of Labor at (718) 834-2090. Your name will be kept confidential to the extent permitted by law.

* * *

EXHIBIT B



**U.S. Department of Labor
Wage and Hour Division**
68-60 Austin Street, 6th Floor
Forest Hills, NY 11375
Tel: (718) 834-2090
www.dol.gov/whd/



AVISO A LOS EMPLEADOS

Su empleador ha resuelto una demanda con el Departamento de Trabajo de los Estados Unidos y ha firmado un acuerdo de solución, que ha sido aprobado por un juez. El acuerdo requiere que su empleador pague dinero a algunos de ustedes que trabajaban a Exclusive Hospitality LLC (Quality Inn), Krishna Hospitality LLC (Country Inn), Sterling Hospitality, LLC (Ramada Inn) desde el 1 de enero de 2015 hasta el 1 de agosto de 2018. El dinero será distribuido directamente por el Departamento de Trabajo de los Estados Unidos. Por favor, llame al Departamento de Trabajo de los Estados Unidos al (718) 834-2090 para actualizar su información de contacto.

Si recibe dinero del acuerdo, usted tiene derecho a mantener este dinero. Es contra la ley para Kaushik Patel, Chandresh Patel, o cualquier persona que actúe en nombre del Exclusive Hospitality LLC (Quality Inn), Krishna Hospitality LLC (Country Inn), Sterling Hospitality, LLC (Ramada Inn) para pedirle este dinero o para sacarlo de su paga.

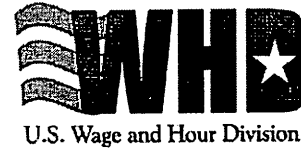
También es contra la ley que su empleador despida, amenace con despedir o llame a las autoridades policiales o de inmigración, reduzca sus horas, o discrimine contra usted de cualquier otra manera por aceptar el dinero del acuerdo, dando información al Departamento de Trabajo de los Estados Unidos, y / o quejándose de no recibir el salario mínimo o sobre tiempo por las horas que trabajó.

Si no se le ha pagado por todas sus horas trabajadas, o si se le ha pedido que devuelva el dinero que recibió basado en el acuerdo, o que haya tomado represalias, llame al Departamento de Trabajo de los Estados Unidos al (718) 834-2090. Su nombre será mantenido confidencial en la medida permitida por la ley.

EXHIBIT B



**U.S. Department of Labor
Wage and Hour Division**
68-60 Austin Street, 6th Floor
Forest Hills, NY 11375
Tel: (718) 834-2090
www.dol.gov/whd/



雇員通知書

您的僱主已和美國勞工部達成了訴訟並簽訂了和解協議，該協議已獲得法官批准。這協議要求您的僱主向2015年1月1日至2018年8月1日期間在Exclusive Hospitality LLC (Quality Inn) · Krishna Hospitality LLC (Country Inn) · Sterling Hospitality · LLC (Ramada Inn) 工作過的部分員工支付賠償。這筆錢將由美國勞工部直接分發。請致電(718)834-2090聯繫美國勞工部，以便更新您的個人聯繫資料。

如果您從和解中收到款項，您有權保留這筆錢。如果Kaushik Patel · Chandresh Patel 或任何代表Exclusive Hospitality LLC (Quality Inn) · Krishna Hospitality LLC (Country Inn) · Sterling Hospitality · LLC (Ramada Inn) 的人要求您退款或從您的工資中扣了款項，這都是違法行為。

如果您因接受了賠償或向美國勞工部提供信息，或向我們投訴您的工作時間或沒有收到最低工資或加班費等，而被您的僱主解雇，威脅解雇或被舉報移民或執法部門，或減少您的工作時間，或以任何其他方式歧視您，這都屬於違法行為。

如果您的僱主沒有支付您工作應得的工資，或者您被要求退還賠償款項或被僱主報復，請馬上致電(718)834-2090聯繫美國勞工部。在法律允許的範圍內，您的姓名和個人資料將被保密。

* * *