

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

THOMAS E. PEREZ, Secretary of Labor,
United States Department of Labor,

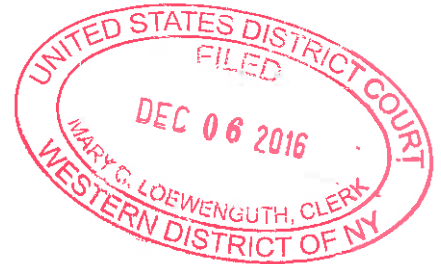
Plaintiff,

v.

LHP FOOD MART, INC. dba VALERO, ANGOLA
FOOD MART, INC. dba MOBIL, LAKE SHORE MINI
MART, INC. dba MOBIL, and LAKHWINDER GILL,
Individually and as Owner,

Defendants.

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Civil Action No.
:
15-cv-00827 (FPG)
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CONSENT JUDGMENT

Plaintiff, the Secretary of Labor, has filed his Complaint, and defendants LHP Food Mart, Inc. dba Valero, Angola Food Mart, Inc. dba Mobil, Lake Shore Mini Mart, Inc. dba Mobil and Lakhwinder Gill, individually and as officer (“defendants”) appeared by Counsel, filed their answer, and without any admission and to fully resolve this matter, agree to the entry of this judgment without contest.

Defendants acknowledge their responsibilities pursuant to this agreement, and acknowledge that they will be subject to sanctions in contempt of this court if they fail to comply with the provisions of this Judgment. 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 the defendants’ behalf and interest be, and they hereby 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 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 6 of the Act, pay to any of their non-exempt employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Section 6 of the Act.

(2) Defendants shall pay non-exempt employees at time and one-half their regular hourly rates for all hours worked over 40 per week, and 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 employee receives compensation in compliance with the Act.

(3) 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 him as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 CFR Part 516.

(4) Defendants shall not discharge or take any retaliatory action against any employee because the 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 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.

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.

II. ORDERED that Defendants are enjoined and restrained from withholding the payment of a total of \$42,000 in minimum wage and overtime compensation due certain current and former employees listed on Exhibit A.

III. ORDERED that Defendants shall pay \$42,000 in liquidated damages due and owing to certain current and former employees listed in Exhibit A and \$1,000 in civil money penalties, for a total of \$85,000 in back wages, liquidated damages and civil money penalties.

IV. To accomplish the requirements of paragraphs II and III, Defendants have delivered the following payments:

- (1) Payments of \$42,000 in back wages and \$42,000 in liquidated damages were made by cashier or certified checks made payable to "Wage and Hour Division - Labor" with "Case No. 1750135" written on the face of the check, and with "Back Wages" written on the face of the check designated as back wages, and "Liquidated Damages" written on the face of the check designated as liquidated damages.

(2) Payment of \$1,000 in civil money penalties were made by cashier or certified check made payable to “Wage and Hour Division - Labor” with “Civil Money Penalty – Case No. 1750135” written on the face of the check.

(3) Defendants sent these three checks to:

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

(4) Defendants sent a copy of each of these three checks to:

U.S. Department of Labor, Wage & Hour Division
130 S. Elmwood Avenue, Room 534
Buffalo, New York 14202
Attn: Assistant District Director

(5) These three payments will be held by the U.S. Department of Labor until the date of entry of this Judgment.

V. ORDERED that Defendants, their officers, agents, servants, and employees and those persons in active concert or participation with them, shall not in any way directly or indirectly, demand, require or accept any of the back wages or liquidated damages from any of the employees listed on the attached Exhibit A. Defendants shall not threaten or imply that adverse action will be taken against any employee because of their receipt of funds due under this Judgment. Violation of this paragraph may subject the defendants to equitable and legal damages, including punitive damages and civil contempt.

VI. The plaintiff shall deliver the proceeds of each check less any legal deductions to the employees named on Exhibit A. Any sums not distributed to the employees or to their personal representatives or estates within a period of three years, because of inability to locate the proper

persons or because of such persons' refusal to accept such sums, shall be deposited in the Treasury of the United States as miscellaneous receipts pursuant to 29 U.S.C. § 216(c).

VII. Defendants have provided to plaintiff the social security numbers and last known addresses of the defendants' employees and former employees to be paid under this judgment.

VIII. ORDERED that defendants shall place FLSA posters in English and in any other language spoken by the employees. These posters will be provided by the Wage and Hour Division as available. Defendants shall display the posters where employees may view them.

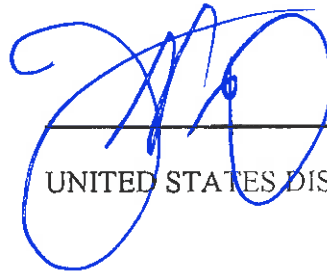
IX. ORDERED that defendants shall orally inform all their employees in English and in any other language spoken by the employees of their rights under the Fair Labor Standards Act, and the terms of this Judgment, including the payment of minimum wages and overtime and the rights of employees to engage in activity protected by the Act without fear of retaliation. The defendants shall so inform their employees within thirty (30) days of the entry of Judgment on a workday.

X. 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 defendant not listed in Exhibit A of this Judgment, be they current or former employees, to file any action against defendant under section 16(b) of the Act or likewise for any current or former employee listed on Exhibit A of this Judgment to file any action against defendant under section 16(b) of the Act for any violations alleged to have occurred after February 15, 2015.

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

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

DATED: 12/6/16
Robert, New York



UNITED STATES DISTRICT JUDGE

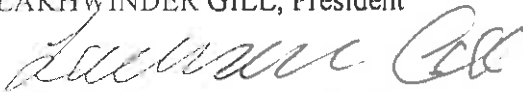
Defendants have appeared by the undersigned counsel and consent to the entry of this Judgment.

LHP FOOD MART, INC.
ANGOLA FOOD MART, INC.
LAKE SHORE MINI MART, INC.

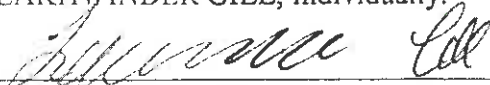
BY:




LAKHWINDER GILL, President



LAKHWINDER GILL, Individually:



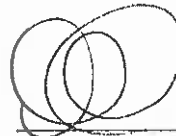
LAKHWINDER GILL



DAMON A. DECASTRO, Esq.
Roschetti & DeCastro, P.C
730 Main Street
Niagara Falls, New York 14301
Attorney for Defendants

STATE OF NEW YORK)
 :SS:
COUNTY OF NIAGARA)

On the 2nd day of November, 2016 before me came LAKHWINDER GILL, to me known, who, being by me duly sworn, did depose and say that he is a duly authorized officer of LHP FOOD MART, INC., ANGOLA FOOD MART, INC. AND LAKE SHORE MINI MART, INC. described in and which executed the foregoing instrument, that he signed his name thereto by like order.

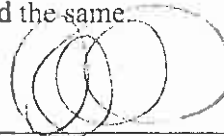


NOTARY PUBLIC



STATE OF NEW YORK)
 :SS:
COUNTY OF NIAGARA)

On the 2nd day of November, 2016 before me came LAKHWINDER GILL, 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

