

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

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

Plaintiff, *

v. *

INTERSHELL INTERNATIONAL *
CORPORATION, YIBING GAO-ROME, *
MONTE ROME, ULTIMATE ADVANCE *
CORP., and PHALLA CHHIT. *

Defendants. *

CIVIL ACTION

FILE NO. 16-cv-11999-PBS

CONSENT JUDGMENT AND ORDER

Plaintiff, Secretary of Labor, United States Department of Labor, has filed a Complaint and Defendants Intershell International Corp., Monte Rome and Yibing Gao-Rome' (hereinafter "Defendants") have received a copy of Plaintiff's Complaint and waived service of process. Defendants also acknowledge assessment by Plaintiff of civil money penalties and have received notice and service of the issuance of the civil money penalties, and hereby withdraw their exception to those civil money penalties, all under Section 16(e) of the Fair Labor Standards Act of 1938 (the "Act"), 29 U.S.C. § 216(c), and 29 C.F.R. §§ 578.1-578.4 and 580.1-580.18. The Court finds that it has jurisdiction to enter this Consent Judgment and Order, and Plaintiff and Defendants agree to its terms.

* Plaintiff named Ultimate Advance Corp. and Phalla Chhit as defendants in the Complaint in this action. However, Plaintiff was not able to locate them and did not serve them with the Summons and Complaint. Accordingly, Ultimate Advance Corp. and Phalla Chhit are not parties to this Consent Judgment.

It is, therefore, ORDERED, ADJUDGED, and DECREED that Defendants, their agents, servants, employees, and all persons acting or claiming to act on their behalf and interest be, and hereby are, permanently enjoined and restrained from violating the provisions of the Act, in any of the following manners:

Defendants shall not, contrary to Sections 6 and 15(a)(2) of the Act, 29 U.S.C. §§ 206 and 215(a)(2), pay any employee who, in any workweek, is employed in commerce, or in the production of goods for commerce, or in an enterprise engaged in commerce or in the production of goods for commerce, as defined by the Act, wages at less than the applicable minimum wage.

Defendants shall not, contrary to Sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), employ any employees who in any workweek are engaged in commerce or in the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours at a rate not less than one and one-half times the employee's regular rate of pay.

Defendants shall not fail to make, keep, and preserve records of employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the regulations issued, and from time to time amended, pursuant to Section 11(c) of the Act, 29 U.S.C. § 211(c), and found in Title 29, Part 516 of the Code of Federal Regulations.

Defendants shall not, contrary to Section 15(a)(3) of the Act, 29 U.S.C. § 215(a)(3), discharge or in any other manner discriminate against any employee because such employee has

filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding.

Further, the Court, finding that the employees are due compensation in the amount of \$180,000 (inclusive of gross back wages and liquidated damages), as shown on the attached Exhibit A, which is incorporated in and made a part hereof, it is ORDERED, ADJUDGED, and DECREED that Defendants, jointly and severally, shall pay said compensation, plus 1% per annum interest, compounded annually, on any unpaid balance, in accordance with the terms set forth herein. Defendants represent that they have been in compliance with the Act since June 1, 2017. In resolving the amount of back wages and liquidated damages ordered to be paid pursuant to this judgment, Plaintiff has relied on this representation and, accordingly, the back wage and liquidated damages provisions of this judgment shall have no effect upon any back wages and liquidated damages which may have accrued since that date.

The back wage and liquidated damages provisions of this judgment shall be deemed satisfied when Defendants deliver to Plaintiff \$90,000.00 in gross back wages, plus 1% per annum interest, compounded annually, on any unpaid balance, from which deductions for Defendants' employees share of social security and federal withholding taxes will be made by the United States Department of Labor with no deduction for the employees' state withholding tax for which the employees shall be responsible, and \$90,000.00 in liquidated damages, plus 1% per annum interest, compounded annually, on any unpaid balance, none of which is subject to deductions. Defendants, jointly and severally, shall further pay the employers' share of FICA to the appropriate authorities for the back wages paid pursuant to this judgment upon receipt of IRS Form 941X from the Secretary.

It is also ORDERED, ADJUDGED and DECREED that Defendants shall also pay, jointly and severally, the civil money penalties issued pursuant to Section 16(e) of the Act, 29 U.S.C. § 216(e), and 29 C.F.R. §§ 578.1–578.4, in a separate check, in the amended amount of \$28,050.00, plus 1% per annum interest, compounded annually, on any unpaid balance, to the Wage and Hour Division.

The back wages, liquidated damages, and civil money penalties payments to be made to Plaintiff set forth above shall be made in the form of certified checks in the gross amounts due, made payable to “Wage and Hour Division—Labor” with Case No. 1744983 written on the face of the checks, in accordance with the payment schedule set forth on the attached Exhibit B.

Defendants shall make the first payment on or before October 27, 2017. The payments will first be allocated to the liquidated damages, second to the back wages (plus 1% per annum interest on any amounts not included in the first payment), and lastly to the civil money penalties (plus 1% per annum interest). Plaintiff shall distribute all back wages and liquidated damages to the employees listed in Exhibit A.

The certified checks for liquidated damages, back wages, and civil money penalties shall be sent by Defendants directly to:

U.S. Department of Labor
Wage and Hour Division
Northeast Region
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317
Attention: Mary Doughty

A copy of said checks shall also be mailed to the following address: U.S. Department of Labor, Wage and Hour Division, Boston District Office, JFK Building, Room 525, 25 New Sudbury Street, Boston, MA 02203.

On or before ten (10) days from the entry of this judgment, Defendants shall deliver to the United States Department of Labor at the Boston District Office of the Wage and Hour Division at the Boston, MA address set forth above, a statement showing the following: employers' Federal ID number(s), the name of each employee listed in Exhibit A, and each employee's current address and social security number (to the extent known by Defendants).

When recovered wages and/or liquidated damages have not been claimed by an employee within three (3) years, because of inability to locate the employee or because of the employee's refusal to accept such sums, Plaintiff shall deposit the wages and/or liquidated damages into the United States Treasury as miscellaneous receipts pursuant to 29 U.S.C. § 216(c).

Defendants shall not, under any circumstances, solicit repayment of any amount paid to any employee in connection with this judgment. In the event any such amount is received from any employee, Defendants shall immediately remit such amount to the United States Department of Labor at the Philadelphia, PA address set forth above.

It is further ORDERED, ADJUDGED and DECREED that each party shall bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

Dated: _____, 2017

Hon. Patti B. Saris
United States Chief District Judge

Plaintiff moves for entry of this judgment:

Nicholas Geale
Acting Solicitor of Labor

Michael D. Felsen
Regional Solicitor


James Glickman BBO#550777
Senior Trial Attorney

10-3-17
Date

Sheila Gholkar BBO#687659
Trial Attorney

U.S. Department of Labor
Office of the Solicitor
John F. Kennedy Federal Building, Room E-375
Boston, MA 02203
Telephone: (617) 565-2500
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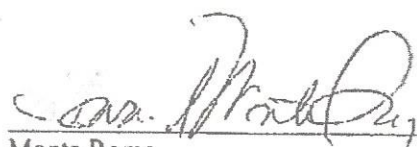
Defendants hereby consent to the entry of this judgment:

Intershell International Corporation

By its Attorneys,


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Kiely & Ferrante
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Gloucester, MA 01930
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10/3/17
Date



Monte Rome

10/2/2017

Date



Yibing Gao-Rome

10/2/17

Date

EXHIBIT B

| Date Due | Liquidated Damages | Back Wages | Civil Money Penalties | Interest | Total |
|------------|-----------------------|---------------|-----------------------------|----------|--------------|
| | | | | | |
| 10/27/2017 | \$90,000.00 | \$14,025.00 | | | \$104,025.00 |
| | | | | | |
| 04/27/2017 | | \$75,975.00 | | \$379.88 | \$76,354.88 |
| | | | | | |
| 04/27/2017 | | | \$28,050.00 | \$140.25 | \$28,190.25 |
| | | | | | |
| Totals | \$90,000.00 | \$90,000.00 | \$28,050.00 | \$520.13 | \$208,570.13 |

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2017, I served a true and accurate copy of this document on all counsel and parties of record using the CM/ECF system, which sends notification of such filing and service to all parties who have entered an appearance via their counsel of record.

/s/ Marianne B. Quinn

Marianne B. Quinn