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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

12 **HILDA L. SOLIS,**
 Secretary of Labor,
 13 United States Department of Labor,
 14 Plaintiff,

Case No. CV11-03521-PSG (RZx)

15 v.

16 **TEMPLE GARDEN HOMES I, INC.,**
 a California corporation,
 17 **TEMPLE GARDEN HOMES II, INC.,**
 a California corporation,
 18 **TEMPLE GARDEN HOMES III, INC.,**
 a California corporation,
 19 **TEMPLE GARDEN HOMES FOR THE**
DEVELOPMENTALLY DISABLED, INC.
 20 **[IV],** a California corporation,
 21 **TEMPLE GARDEN HOMES FOR THE**
DEVELOPMENTALLY DISABLED, INC.
 22 **V,** a California corporation,
 23 **TEMPLE GARDEN HOMES FOR THE**
DEVELOPMENTALLY DISABLED, INC.
 24 **VI,** a California corporation,
T.G.H. MANAGEMENT GROUP, INC.,
 25 a California corporation (also known as
T.G.H. MOBILE DAY PROGRAM),
 and
 26 **FLORENCIA PILPA,** individually and as
 managing agent of the aforementioned corpo-
 27 rate defendants,

~~(PROPOSED)~~ CONSENT
 JUDGMENT

28 Defendants.

- 1 A. The Secretary of Labor, United States Department of Labor (the "Secretary") has
2 filed a Complaint alleging that Defendants Temple Garden Homes I, Inc., a Cali-
3 fornia corporation, Temple Garden Homes II, Inc., a California corporation,
4 Temple Garden Homes III, Inc., a California corporation, Temple Garden Homes
5 for the Developmentally Disabled, Inc. [IV], a California corporation, Temple
6 Garden Homes for the Developmentally Disabled, Inc. V, a California corpora-
7 tion, Temple Garden Homes for the Developmentally Disabled, Inc. VI, a Cali-
8 fornia corporation, T.G.H. Management Group, Inc., a California corporation,
9 (also known as T.G.H. Mobile Day Program) (collectively, "Corporate Defen-
10 dants"), and Florencia Pilpa, individually and as managing agent of Corporate
11 Defendants ("Defendant Pilpa") ("Corporate Defendants" and "Defendant Pilpa"
12 are hereafter collectively referred to as "Defendants") violated provisions of Sec-
13 tions 7 and 15(a)(2) of the Fair Labor Standards Act of 1938, as amended
14 ("FLSA"), 29 U.S.C. §§ 207 and 215(a)(2), respectively.
- 15 B. Defendants wish to enter into a settlement agreement and agree to the terms set
16 forth in this consent judgment ("Consent Judgment") in order to settle the Secre-
17 tary's claims arising out of her FLSA investigation of Defendants for the period
18 from June 1, 2008 to May 22, 2010 ("Investigative Period").
- 19 C. The Secretary is willing to enter into a settlement agreement and agrees to this
20 Consent Judgment in order to provide Defendants with an opportunity to achieve
21 compliance with the FLSA.
- 22 D. Defendants have appeared and acknowledge receipt of a copy of the Complaint.
- 23 E. Defendants waive issuance and service of process and waive answer and any de-
24 fenses to the Complaint.
- 25 F. The Secretary and Defendants waive Findings of Fact and Conclusions of Law,
26 and agree to the entry of this Consent Judgment in settlement of this action, with-
27 out further contest.
- 28

- 1 G. Defendants admit that this Court has jurisdiction over the parties and subject mat-
2 ter of this civil action.
- 3 H. Defendants admit that venue lies in the district court for the Central District of
4 California.
- 5 I. Defendants admit that, as of the date of this Consent Judgment (as indicated be-
6 low by the signature line for Defendant Pilpa), they are joint employers within the
7 meaning of the FLSA and regulations promulgated thereunder. E.g., 29 C.F.R.
8 § 791.2.
- 9 J. The Secretary has concluded, and Defendants admit, that during the Investigative
10 Period, Defendants failed to pay their employees proper overtime wages as re-
11 quired by Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2),
12 respectively.
- 13 K. Due to Defendants' violation of the aforementioned overtime provisions of the
14 FLSA for the Investigative Period, the Secretary has determined that **\$53,581.09**
15 in overtime backwages are due to nineteen (19) of Defendants' employees.
- 16 L. Defendants hereby agree to remit overtime backwages in the amount of
17 **\$53,581.09** ("Overtime Backwages Payment").
- 18 M. Defendants admit that they were previously investigated by the Secretary for
19 FLSA compliance for the period from December 31, 2004 to December 31, 2006
20 ("Prior Investigation").
- 21 N. Defendants admit that as a result of the Prior Investigation, the Secretary then de-
22 termined that Defendants were in violation of the overtime provisions of the
23 FLSA.
- 24 O. Defendants admit that as a result of the Prior Investigation, Defendants then paid
25 their employees \$49,113.21 in FLSA overtime backwages, as determined by the
26 Secretary.
- 27 P. The Secretary has assessed \$10,972.50 in unpaid civil money penalties ("CMPs")
28 against Defendants due to the willful and/or repeat nature of Defendants' over-

1 time violations for the Investigative Period. The CMPs were assessed against De-
2 fendants and finally determined by the Secretary pursuant to authority granted in
3 Section 16(e)(2) of the FLSA, 29 U.S.C. §§ 216(e)(2). The Secretary and Defen-
4 dants agree to an amended CMP figure in the amount of \$9,500.00. Defendants
5 hereby agree to remit \$9,500.00 to the Secretary (“CMP Payment”).

6 Q. Defendants represent that as of the date of this Consent Judgment (as indicated
7 below by the signature line for Defendant Pilpa), Defendants are presently in full
8 compliance with all provisions of the FLSA, including but not limited to, the
9 FLSA’s minimum wage requirements (Section 6, 29 U.S.C. § 206), overtime re-
10 quirements (Section 7, 29 U.S.C. § 207), and recordkeeping requirements (Sec-
11 tion 11, 29 U.S.C. § 211).

12 R. Defendants specifically represent that as of the date of this Consent Judgment, the
13 time that any of Defendants’ employees spend working at each of Defendants’
14 site locations shall be aggregated for purposes of determining compliance with
15 the overtime provisions of the FLSA. (For example, if Employee X works at both
16 Temple Garden Homes I, Inc., and the T.G.H. Mobile Day Program, the hours
17 worked by Employee X at these site locations shall be added together by Defen-
18 dants for purposes of determining whether Employee X is to be compensated at
19 an overtime rate.)

20 S. Defendants represent that they will not later attempt to recover the Overtime
21 Backwages Payment from their employees, such as by: subtracting the Overtime
22 Backwages Payment from employees’ future paychecks, asking employees for
23 the Overtime Backwages Payment to be returned, or by any other means. Should
24 the Secretary learn at any future time that Defendants have recovered, or have at-
25 tempted to recover, any portion of the Overtime Backwages Payment from their
26 employees, the Secretary may assess an additional civil money penalty, subject to
27 her sole discretion, for the Investigative Period. Furthermore, any attempt by De-
28 fendants to recover any portion of the Overtime Backwages Payment may be con-

1 sidered continued withholding of the Overtime Backwages Payment and, as such,
2 may constitute a violation of Paragraph 3, infra, of this Consent Judgment and in-
3 junction, as to be determined by the Court.

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1 It is therefore, upon motion of the attorneys for the Secretary, and for cause
2 shown,

3 **ORDERED, ADJUDGED, AND DECREED** that Defendants, their officers,
4 agents, servants, and employees, and those persons in active concert or participa-
5 tion with them who receive actual notice of this order, by personal service or oth-
6 erwise, be, and hereby are, permanently enjoined and restrained from violating the
7 provisions of Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and
8 215(a)(2), respectively, in any of the following manners:

- 9 1. Defendants shall not contrary to Section 7 of the FLSA, 29 U.S.C. § 207,
10 employee any employee who in any workweek is engaged in commerce
11 or the production of goods for commerce, within the meaning of the
12 FLSA, for a workweek longer than 40 hours unless the employee is paid
13 at a rate of time and one-half the employee's regular rate for all hours
14 worked in excess of 40 hours in a workweek.
- 15 2. Defendants shall aggregate the hours worked by their employees at each
16 of their site locations, as explained above in Paragraph R, for purposes of
17 determining compliance with the overtime provisions of the FLSA.
- 18 3. Defendants shall not continue to withhold the Overtime Backwages Pay-
19 ment, in the amount of \$53,581.09, found due under the FLSA to those
20 employees listed in the attached Exhibit 1.
- 21 4. The Overtime Backwages Payment, in the amount of \$53,581.09, shall
22 be made as follows:
 - 23 a. For those individuals listed in Exhibit 1 who are currently employed
24 by Defendants: On or before **Friday, May 13, 2011**, Defendants
25 shall deliver, by personal delivery, a separate certified or cashier's
26 check or money order to each individual named in the attached Ex-
27 hibit 1, each of which shall be made payable to the order of that par-
28 ticular individual and the Wage and Hour Division, United States

1 Department of Labor, as an alternate payee (for example, "Pay to the
2 order of Employee X or Wage & Hour Div., Labor"), and each of
3 which shall be in an amount equal to 100% of the net amount due to
4 that particular individual as provided in Exhibit 1, after making ap-
5 propriate F.I.C.A. and federal withholding tax deductions only.

- 6 b. Upon personal delivery of the above-described checks or money or-
7 ders, Defendants shall have each individual execute, by date and sig-
8 nature, a Department of Labor "WH Form 58" entitled "Receipt for
9 Payment of Lost or Denied Wages, Employment Benefits, or Other
10 Compensation" ("Form 58"). By **Friday, May 27, 2011**, Defendants
11 shall send all completed Form 58s (with a cover page providing De-
12 fendants' name, address, and "Wage Hour case identification num-
13 ber: 1551685") to the Secretary's authorized representatives at the
14 following address:

15 U.S. Department of Labor, Wage Hour Division
16 100 N. Barranca Street, Suite 850
17 West Covina, CA 91791

- 18 c. For those individuals listed in Exhibit 1 who are no longer employed
19 by Defendants and/or for those individuals whose checks or money
20 orders are otherwise undeliverable, for any reason whatsoever: On or
21 before **Friday, May 13, 2011**, Defendants shall deliver, by certified
22 mail, a separate certified or cashier's check or money order for each
23 individual named in the attached Exhibit 1, each of which shall be
24 made payable to the order of that particular individual and the Wage
25 and Hour Division, United States Department of Labor, as an alter-
26 nate payee (for example, "Pay to the order of Employee X or Wage
27 & Hour Div., Labor"), each of which shall be in an amount equal to
28 100% of the net amount due to that particular individual as provided

1 in Exhibit 1, after making appropriate F.I.C.A. and federal withhold-
2 ing tax deductions only, to the Secretary's authorized representatives
3 at the address provided above in Paragraph 4.b.

4 The Secretary shall allocate and distribute the proceeds of these
5 checks or money orders to the particular individuals named therein,
6 or to their estates if that be necessary, in her sole discretion. Any
7 money not so paid within a period of three (3) years from the date of
8 its receipt, because of an inability to locate the proper persons or be-
9 cause of their refusal to accept it, shall be deposited by the Secretary
10 in a special deposit account for payment to the proper persons and
11 upon such inability to pay within three (3) years, shall then be depos-
12 ited in the Treasury of the United States, as miscellaneous receipts,
13 pursuant to 29 U.S.C. § 216(c).

14 5. Defendants shall not continue to withhold the CMP Payment, in the
15 amount of \$9,500.00, assessed against Defendants and finally determined
16 by the Secretary pursuant to authority granted in Section 16(e)(2) of the
17 FLSA, 29 U.S.C. § 216(e)(2).

18 6. The CMP Payment shall be made by cashier's check or money order, and
19 shall have Defendant Pilpa's name and "CMP" written on said payment.
20 The CMP Payment shall be made payable to the order of "Wage and
21 Hour Div., Labor." The CMP Payment shall be delivered on or before
22 **Friday, May 13, 2011**, to the Secretary's authorized representatives at
23 the address provided above in Paragraph 4.b.

24
25 In the event of any default in the timely making of any payment due hereunder,
26 the full amount due under the provisions of this Judgment which then remains unpaid,
27 plus post-judgment interest at the rate of 10% per year, from the date of this Judgment
28 until paid in full, shall become due and payable upon the Secretary's sending, by ordi-

1 nary mail, a written demand to the last business address of Defendants then known to the
2 Secretary.

3 It is further **ORDERED** that each party shall bear its own fees and other expenses
4 incurred by such party in connection with any stage of this proceeding, including but not
5 limited to attorney's fees, which may be available under the Equal Access to Justice Act,
6 as amended.

7 **SO ORDERED.**

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9 Dated: 05/02/ _____, 2011

PHILIP S. GUTIERREZ

United States District Judge

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1 For Defendants:

2 Defendants hereby appear, waive any
3 defense herein, consent to the entry of
4 this Judgment, and waive notice by the
5 Clerk of Court:

6 
7 _____
8 FLORENCIA PILPA

4/18/11, 2011
Date

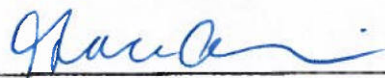
9 On behalf of herself and the
10 Corporate Defendants

11 For the Secretary:

12 M. PATRICIA SMITH
13 Solicitor of Labor

14 LAWRENCE BREWSTER
15 Regional Solicitor

16 DANIEL J. CHASEK
17 Associate Regional Solicitor

18 
19 _____
20 GRACE A. KIM, Trial Attorney
21 Attorneys for the Secretary
22 U.S. Department of Labor

April 18th, 2011
Date

EXHIBIT 1

Solis v. Temple Garden Homes I, Inc., et al.,

Last Name	First Name	Overtime Backwages Due
1. Addington	Silvia	\$684.79
2. Aguilar	Maria Teresa	\$480.81
3. Aguirre	Rebeca	\$2,023.13
4. Castro	Adela	\$224.08
5. Del Pilar	Harry Go	\$2,522.86
6. Del Pilar	Naida A.	\$2,533.54
7. Galicinao	Teodoro	\$1,400.94
8. Garbo	Jose	\$4,469.55
9. Gotgotao	Mercedita	\$5,094.78
10. Hernandez	Fil	\$546.36
11. Ignacio	Edwin	\$7,424.37
12. Madarang	Oligaria	\$1,464.75
13. Munoz	Hector	\$5,539.42
14. Parin	Alex	\$7,503.60
15. Raagas	Filoteo	\$3,081.22
16. Seminiano	Teodula	\$102.09
17. Silva	Marcela	\$3,743.78
18. Uy	Marlon	\$3,291.14
19. Villa	Mario	\$1,449.88
Total		\$53,581.09