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(06)

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor,

Plaintiff,

Chao v. Garden of Eden, LLC et al v.

Civil Action

Doc. 3

File No. 06-3435 (FB)

GARDEN OF EDEN, LLC, A Corporation;
JAY AMSEL, Individually, and as President,

Defendants.

CONSENT JUDGMENT

Plaintiff, the Secretary, has filed her Complaint and defendants GARDEN OF EDEN, LLC, and JAY AMSEL have appeared by Counsel, and an agreement was reached by the parties to resolve all the issues raised in this action. Defendants, without admitting or denying the allegations of the Complaint, consent to the entry of this Judgment, and it is therefore upon motion of the attorneys for the Secretary and for good cause shown:

I. ORDERED that defendants are permanently enjoined and restrained from violating the provisions of section 7 of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. Section 201 et seq.), (the Act), in any manner, specifically including:

(1) Defendants shall pay 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.

II. ORDERED that the defendants be, and hereby are, enjoined and restrained from withholding the payment of overtime compensation due their employees listed in exhibit A in the total amount of \$25,000. Payment of that sum shall be made on or before July 31, 2006. Defendants shall pay this amount by delivering a certified check or bank check or money order to the United States Department of Labor – Northeast Region, JP Morgan Chase, P.O. Box 880903, Dallas, Texas 75388-0903, payable to the order of “Wage and Hour-Labor”.

III. ORDERED that a copy of the certified check and cover letter shall be simultaneously sent to Maria Rosado, Assistant Director, U.S. Department of Labor, Wage Hour District Office, 10 Metrotech Center, 625 Fulton Street 7th Floor, Brooklyn New York 11201 and Douglas Weiner, Esq., U.S. Department of Labor, Office of the Regional Solicitor, 201 Varick Street, Room 983, New York, New York 10014. The Secretary shall distribute the defendants' payments to the employees and former employees, or to their estates, as set forth in Exhibits A.

Defendants shall provide to plaintiff the social security number and last known address of each employee or former employee listed in Exhibits A of this Judgment.

Any sums not distributed to the employees or former employees named herein, or to their personal representatives because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Clerk of this Court who shall deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. 2041 and 2042; and it is further

V. ORDERED that neither defendants nor anyone on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Judgment; and it is further

VI. ORDERED that defendants shall place posters provided by the Wage and Hour Division with information about the FLSA where employees may view them; and it is further

VII. ORDERED that 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 or former employees of defendants not listed in Exhibit A to file any action against defendants under Section 16(b) of the Act, or likewise for any current or former employee listed in Exhibits A to file any action against defendants under Section 16(b) of the Act for any violations alleged to have occurred after February 11, 2005; and it is further

VIII. ORDERED that each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

SO ORDERED:

Frederic Block

HONORABLE
UNITED STATES DISTRICT JUDGE


DATED: 7/17/06.
Brooklyn, New York

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


By:



JAY AMSEL, PRESIDENT
GARDEN OF EDEN, LLC.



JAY AMSEL



Marshall F. Berman, Esq.
Attorney for Defendants

Marshall F. Berman, Esq.
Attorney for Defendants