

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

JULIE A. SU,
ACTING SECRETARY OF LABOR,
U.S. DEPARTMENT OF LABOR,

Plaintiff,

vs.

QVEST, LLC,

Defendant.

No. 24-CV-4060-CJW-MAR

ORDER

The matter before the Court is a Motion for Entry of Consent Order and Judgment filed by plaintiff Julie A. Su, Acting Secretary of Labor of the United States Department of Labor. (Doc. 4).

On November 19, 2024, plaintiff filed a complaint against defendant alleging violations of the Fair Labor Standards Act (“FLSA”). (Doc. 1). On November 20, 2024, plaintiff filed a Motion for Entry of Consent Order and Judgment and attached as an exhibit a proposed Consent Order and Judgment (“Consent Judgment”) requesting injunctive relief and a civil monetary penalty. (*Id.*; Doc. 4-1). Plaintiff’s motion states that defendant agrees to the Consent Judgment and defendant signed the Consent Judgment. *See* (Docs. 4, at 1; 4-1, at 13). Thus, the Court considers this matter fully submitted.

“A consent judgment is reviewed for fairness, reasonableness, and adequacy.” *ABM Janitorial Services-North Central, Inc. v. PAMI Ryan Town Centre LLC*, Nos. 08-CV-100-LRR, 08-CV-123-LRR, 2009 WL 2940078, at *2 (N.D. Iowa 2009) (citing *United States v. Metro. St. Louis Sewer Dist.*, 569 F.3d 829, 841 (8th Cir. 2009)). The

Court has fully reviewed the Consent Judgment which has been signed and approved for entry by both parties. (Doc. 4-1). The Consent Judgment provides for specific and detailed injunctive relief, civil money penalties, and the rights and obligations the parties owe each other if the Consent Judgment is violated. The Court finds the Consent Judgment to be fair, reasonable, and adequate.

First, as to the proposed injunctive relief, it is well established in the Eighth Circuit that “an injunction which does little or nothing more than order the defendants to obey the law is not specific enough” and may be unenforceable. *Bennie v. Munn*, 822 F.3d 392, 397 (8th Cir. 2016). That is not to say, however, that courts cannot enjoin acts that are already unlawful. *Id.* “Rather, the point is that an injunction cannot be too vague and must give ‘fair and precisely drawn notice of what the injunction actually prohibits.’” *Id.* (quoting *Calvin Klein Cosmetics Corp. v. Parfums de Coeur, Ltd.*, 824 F.2d 665, 669 (8th Cir. 1987)).

Here, the Consent Judgment generally provides that defendant is permanently enjoined from violating established provisions of the FLSA. (Doc. 4-1, at 2-3). If this was all the Consent Judgment provided, the Court would hesitate to find that it is enforceable. The Consent Judgment, however, lists the specific FLSA provisions defendant is enjoined from violating. The Consent Judgment also establishes a specific and detailed plan defendant must follow to ensure defendant’s accountability and adherence to the FLSA, and the rights and remedies available if the Consent Judgment is not followed. The Court is satisfied that the inclusion of the specific FLSA provisions defendant is enjoined from violating, combined with the detailed plan the parties negotiated, contains enough specificity to be an enforceable injunction. The Court also finds that terms were freely negotiated through counsel and appear to be fair, reasonable, and adequate.

Second, the Consent Judgment contains a provision for civil money penalties. The parties have negotiated a penalty amount that accounts for the interests of the respective parties and the costs and risks associated with litigation. There is nothing to suggest coercion or undue pressure on behalf of either party. There is also nothing to suggest either party was not acting in their best interest, or in the interest of the people they represent. Under these circumstances, the Court also finds the monetary award to be fair, reasonable, and adequate.

For these reasons, the Motion for Entry of Consent Order and Judgment (Doc. 4) is **granted**. The Consent Order and Judgment (Doc. 4-1) is approved and expressly incorporated into this Order. This case can be closed.

IT IS SO ORDERED this 27th day of November, 2024.



C.J. Williams, Chief Judge
United States District Court
Northern District of Iowa

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

JULIE A. SU,)
ACTING SECRETARY OF LABOR,)
U.S. DEPARTMENT OF LABOR,)
)
Plaintiff,) CIVIL ACTION FILE
) NO. 5:24-cv-4060
v.)
)
QVEST, LLC,)
)
Defendant.)

CONSENT ORDER AND JUDGMENT

This Consent Order and Judgment (“Order”) resolves a civil action filed by Plaintiff Julie A. Su, Acting Secretary of Labor, U.S. Department of Labor (“Department of Labor” or “Acting Secretary”), to enforce sections 12(c), 15(a)(4), and 17 of the Fair Labor Standards Act of 1938, as amended (“FLSA” or “Act”), [29 U.S.C. §§ 212\(c\), 215\(a\)\(4\), and 217](#), against Qvest, LLC, (“Qvest” or “Defendant”).

Defendant stipulates that it is subject to the FLSA and consents to the entry of the judgment below.

Defendant admits and the Court finds Defendant, and its operations throughout the United States, including in Iowa, are engaged in related activities performed through unified operation or common control for a common business purpose and are an “enterprise” under [29 U.S.C. § 203\(r\)](#) of the FLSA.

Defendant admits and the Court finds Defendant is an enterprise engaged in commerce or in the production of goods for commerce within the meaning of [29 U.S.C. § 203\(s\)\(1\)\(A\)](#) of the FLSA.

It is hereby ORDERED, ADJUDGED, and DECREED that Defendant, its agents, officers, managerial employees, supervisory employees involved in hiring, subcontractors (if any) employed for the purpose of providing labor, and successors who receive actual notice hereof, are permanently enjoined from violating sections 12(c) and 15(a)(4) of the FLSA, in any of the following manners, at any workplace in which Qvest operates:

1. Defendant, its agents, officers, managerial employees, supervisory employees involved in hiring, subcontractors (if any) employed for the purpose of providing labor, and successors who receive actual notice hereof, shall not, contrary to the provisions of sections 12(c) and 15(a)(4) of the Act, [29 U.S.C. §§ 212\(c\) and 215\(a\)\(4\)](#), and any provision of 29 C.F.R. Part 570, engage in “oppressive child labor” as defined by section 203(l) of the Act, including but not limited to, employing any individual in violation of the age, hours, or occupational restrictions set forth in 29 C.F.R. Part 570, at any of Defendant’s workplaces in the United States.

2. Defendant, its agents, officers, managerial employees, supervisory employees involved in hiring, subcontractors (if any) employed for the purpose of providing labor, and successors who receive actual notice hereof, shall not, contrary to sections 12(c) and 15(a)(4) of the Act, employ oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, pursuant to section 17 of the FLSA, that Defendant, its agents, officers, managerial employees, supervisory employees involved in hiring, subcontractors (if any) employed for the purpose of providing labor, and successors who receive actual notice hereof, be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 11(c) and 15(a)(5) of the FLSA.

3. Defendant, its agents, officers, managerial employees, employees involved in hiring, subcontractors (if any) employed for the purpose of providing labor, and successors who receive actual notice hereof shall make, keep, and preserve to the extent required by law records showing the wages, hours, and other conditions of work for each of their employees in accordance with [29 U.S.C. § 211\(c\)](#), including accurate records of the date of birth submitted by/for all employees under the age of nineteen (19) in accordance with [29 C.F.R. § 516.2\(a\)\(3\)](#), and the identification of any machines on which minors are assigned to work or clean. Defendant shall make such records relating to compliance with the child-labor provisions of the FLSA available to representatives of the Acting Secretary within 72-hours, unless the parties agree to another period of time, which the parties shall reasonably evaluate based on the scope of the request, following notice from a representative of the Wage and Hour Division of the United States Department of Labor (“Wage and Hour Division”).

4. The Court shall retain jurisdiction of this matter to enforce this Order.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED, for the three-year period following the date of this Order, that:

Identification of Workers Employed in Violation of the FLSA’s Child Labor Provisions

5. Within sixty (60) days of the entry of this Order, Defendant will implement any necessary measures at each of the locations where Defendant operates throughout the United States of America to ensure Defendant has exercised reasonable diligence to determine that no individuals under the age of eighteen (18) are employed in violation of the FLSA.

6. Within ninety (90) days of the entry of this Order, Defendant will provide to the Wage and Hour Division a list of all minors employed by Defendant. For each minor, Defendant shall also specify the minor’s current age; the minor’s current and anticipated (if different) hours

of work (both the number of hours and time of day); the minor's job duties; and any machinery that the minor operates or that Defendant anticipates the minor will operate.

Compliance Specialist

7. Within ninety (90) days of the entry of this Order, Defendant will hire a third-party consultant or compliance specialist (hereinafter the "Compliance Specialist") with knowledge of and experience with the requirements of compliance with the FLSA's child-labor provisions. The Compliance Specialist shall be sufficiently proficient in the written and spoken language predominantly used by Defendant's employees or shall use an appropriate interpreter or translator when interacting with employees.

8. Within sixty (60) days of retention, the Compliance Specialist will review and recommend enhancements to Defendant's existing policies for all employees relating to compliance with the child labor provisions of the FLSA.

9. Within ninety (90) days of retention, the Compliance Specialist shall review the Wage and Hour Division's Youth Employment Compliance Assistance Toolkit, as well as other resources the Compliance Specialist deems appropriate, to determine which materials should potentially be used in the training of Defendant's managers, and within ninety (90) days of that review, the Compliance Specialist shall carry out such training for all of the facilities in which Defendant operates. The training can be remote and will include training on the changes to Defendant's child labor policies made as a result of the review in paragraph 7. Defendant will have such training materials properly translated for employees with limited English proficiency. In conjunction with Defendant, the Compliance Specialist shall maintain training logs reflecting the nature of the training, participants, and date(s) of training.

10. The Compliance Specialist shall provide annual child labor compliance training to all management personnel for a period of three (3) years after the entry of this Order. Defendant also will train new managers within a reasonable period of time, but no more than thirty (30) days after they have been employed, as part of their onboarding process during this three-year period. Such training can be remote. Defendant shall, in conjunction with the Compliance Specialist, maintain training logs reflecting the nature of the training, participants, and date(s) of training. Prior to each annual child labor compliance training, the Compliance Specialist shall work with Defendant to review and consider additional revisions concerning Defendant's policies and procedures to assist Defendant in complying with the FLSA's child labor provisions, and Defendant shall confer with the Compliance Specialist regarding all recommended changes to Defendant's policies and procedures in this regard. Defendant shall be responsible for ensuring its policies and training materials reasonably reflect Defendant's policy of not hiring those under the age of eighteen (18) and up-to-date requirements relating to the employment of minors, including any public-facing guidance from the Wage and Hour Division. This training shall be provided in a language or languages understood by the employees and in a format that is accessible to the employees.

11. The Compliance Specialist shall monitor and audit Defendant's compliance with the child-labor provisions of the FLSA for a period of three (3) years commencing no later than ninety (90) days after the Compliance Specialist is retained by Defendant, and shall report any concerns regarding non-compliance with these provisions to Defendant's designated officials. The Compliance Specialist shall audit two (2) of Defendant's respective operations per quarter for the remainder of the three (3) years, as set forth above in this paragraph. Monitoring shall include unannounced site visits, review of records, interviews of managers and employees, evaluation of

training procedures, and additional steps to achieve compliance, as determined by the Compliance Specialist. Forms I-9, or copies of documents presented at the time of completion of the Forms I-9, for suspected minors, cannot be used to show compliance with section 12 of the FLSA, nor can they be used to come into compliance with section 12 of the FLSA.

12. Should Defendant or the Compliance Specialist identify any child labor violations, Defendant shall notify the Wage and Hour Division, by emailing Nancy Alcantara at Alcantara.Nancy@dol.gov, of the violation within ten (10) business days, or any such longer period agreed upon by the parties, including the identity of the minor, the facility at which the minor was working, the specific child labor violation found, and a description of steps Defendant has taken to cure such violation, if any.

Third Party Contracts

13. Following retention of the Compliance Specialist, Defendant shall have thirty (30) days to include a child-labor provision in its contract template provided to clients, for contracts executed and/or renewed after entry of this Order, with the name and contact information of the Compliance Specialist for clients to direct any questions or concerns regarding potential child labor at their establishment. Additionally, Defendant shall attach Fact Sheet #43 on Child Labor in Non-Agriculture Occupations to all future contracts for its services. Defendant must keep the child labor provision in its contact template and attach Fact Sheet #43 for at least three (3) years following the entry of this Order.

Monitoring and Maintaining Tip Line and Notice of Violations

14. Within ninety (90) days of the retention of the Compliance Specialist, Defendant shall establish a toll-free number that employees may use to seek guidance and/or to report compliance issues with the child labor provisions of the FLSA on an anonymous basis, with the

requests for guidance or the reports of compliance issues being furnished directly to the Compliance Specialist. Notice informing Qvest's employees of the toll-free number shall be posted in a conspicuous place, such as a room provided for employee notices, so as to permit employees to readily read it. The notice shall be posted in English and Spanish, as well as any language predominantly spoken by Qvest employees at that particular facility, within thirty (30) days after confirmation that the toll-free number is set-up and able to receive anonymous reports regarding alleged child labor issues under the FLSA. The Compliance Specialist shall promptly investigate and document each complaint received relating to alleged child labor violations and shall make recommendations to Defendant regarding timely corrective actions, to the extent any are warranted, and Defendant shall document and maintain records regarding any such corrective action(s) taken. Such documentation shall be made reasonably available for review and copying to the Wage and Hour Division upon the Acting Secretary's request. Defendant shall operate the toll-free number for a period of three (3) years after the entry of this Order.

Compliance Reports

15. Within 180 days of being retained, the Compliance Specialist shall submit an initial report to the Wage and Hour Division outlining steps taken to comply with the requirements of this Order. The initial report shall also summarize the Compliance Specialist's findings, including violations found (if any), during this 180-day period, the training that was done by Defendant in conjunction with the Compliance Specialist (along with a summary of training materials presented and substance of the training), and information regarding alleged unlawful child labor received through the toll-free number. Nothing in this paragraph shall relieve Defendant of the responsibility to report child-labor violations within ten (10) business days of their discovery (or longer period agreed upon) as outlined in paragraph 12.

16. After the initial report referenced in paragraph 15, the Compliance Specialist shall submit annual reports to the Wage and Hour Division, within five (5) business days of the second and third anniversary of the entry of this Order. These annual reports shall contain a summary of actions taken by the Compliance Specialist in carrying out the requirements of this Order, including violations found (if any) during the preceding year, the training that was done by Defendant and/or in conjunction with the Compliance Specialist, and information regarding alleged unlawful child labor received through the toll-free number referenced in paragraph 14 (excluding materials and information submitted in the initial report described in paragraph 15). Nothing in this paragraph shall relieve Defendant of the responsibility to report child-labor violations within ten (10) business days of their discovery (or longer period as agreed upon) as outlined in paragraph 12.

Defendants' Opportunity to Cure Violations

17. For purposes of this Order, to “cure” means to ensure any minor in question is not employed in violation of section 12 of the FLSA.

As to contempt proceedings:

a. For the applicable three-year period of the Compliance Specialist’s review, should Defendant identify any child labor violation or should the Compliance Specialist identify any child labor violation to Defendant as part of its auditing process in paragraph 11, Defendant shall have ten (10) business days to cure the reported child labor violation. In the event Defendant cures such violations within ten (10) business days, such alleged violations reported to the Department of Labor as provided in paragraph 12 shall not serve as the basis for a contempt action of this Order, unless the Department of Labor learns of these child labor violations from sources other than Defendant (under paragraph 12) or the

Compliance Specialist's formal reports (under paragraphs 15 and 16) prior to receiving notice from Defendant or the Compliance Specialist, in which case the Department of Labor may proceed with any action for contempt of this Order.

b. During the 180 day period following the entry of this Order, the Department of Labor shall promptly notify Defendant, in writing, of the identity and location of any individuals believed to be currently employed in violation of the child labor provisions of the FLSA. Defendant shall have ten (10) business days to cure such violation. In the event Defendant cures such violations in response to the Department of Labor's notification within ten (10) business days, such alleged violations shall not serve as the basis for a contempt action of this Order. Should Defendant fail to cure any such violation within ten (10) business days, the Department of Labor may proceed with any action for contempt of this Order.

As to civil money penalties:

a. Nothing in this Order shall be construed to limit the Department of Labor's authority to issue civil money penalties as a result of any violation of section 12 of the FLSA unless explicitly stated otherwise.

b. For the applicable three-year period of the Compliance Specialist's review, the Department of Labor shall be able to assess civil money penalties pursuant to 29 U.S.C. § 216(e) related to any child labor violation, unless the sole basis for the knowledge as to the child labor violations comes from Defendant and/or the Compliance Specialist's reports to the Wage and Hour Division. Should the Department of Labor receive notice from another source, including, but not limited to, through its own open investigation(s), receipt of a complaint, referral from another governmental entity or the media, etc., of potential

child labor violations prior to notification from the Compliance Specialist's reports to the Wage and Hour Division or from Defendant, the Department of Labor may assess civil money penalties related to those child labor violations, even if it is also subsequently notified by Defendant and/or the Compliance Specialist.

Mandatory Disciplinary Sanctions for Management Personnel

18. Defendant shall impose disciplinary sanctions, including termination and/or suspension, upon any management personnel responsible for child labor violations occurring after the date of this Order. This includes any management personnel who are or become aware of child labor violations and fail to report it.

Retaliation

19. Defendant agrees that it shall not take any retaliatory action against any of its employees, including family members or guardians of minor children employed by Defendant, in violation of [29 U.S.C. § 215\(a\)\(3\)](#) of the FLSA, because an employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to the FLSA, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee. These circumstances could apply, for example, when an employee has spoken with or otherwise consulted with the Compliance Specialist, when an employee has cooperated with the Wage and Hour Division or other agency of the Department of Labor, and when an employee has cooperated in a Department of Labor investigation. Prohibited retaliatory action may include, but is not limited to, reporting or threatening to report, directly or indirectly, any such individual to law enforcement agencies based on the person's actual or perceived immigration status, or initiating an internal I-9 audit or other reverification process for the purpose of retaliating against any worker or chilling that worker's rights under the FLSA. It shall not be considered a retaliatory

action to terminate any individual who is determined to be a minor or whose age cannot be verified or confirmed on the basis, in whole or in part, of a review of any provided documentation.

Notice of Rights

20. Defendant shall post this Order, in English and Spanish, at each of the facilities in which it operates where notices are customarily posted for its employees, and it shall remain posted for a period of not less than sixty (60) days. Defendant shall post and make available to Qvest employees the Wage and Hour Fact Sheet # 43 regarding the child-labor provisions of the FLSA, Fact Sheet # 77A regarding the prohibition of retaliation under the FLSA; the “Employer Pocket Guide on Youth Employment”; and the “Statement of DOL Interest/Prosecutorial Discretion” to each of its employees in the language used by the employee, to the extent such translation is available on the Department of Labor’s website, and shall otherwise maintain all existing postings required by the Department of Labor.

Civil Money Penalties

21. Within thirty (30) business days of the entry of this Order, Defendant agrees to pay **\$171,919** in civil money penalties (“CMPs”) for child-labor violations, specifically for the operation of machinery in violation of Hazardous Order 10 related to the eleven (11) minors identified as of the date of this Order as having previously worked at the Seaboard Triumph Foods, LLC, plant in Sioux City, Iowa, prior to October 2023, during the period of investigation.

Other Investigations

22. This Order resolves the Acting Secretary’s investigations into oppressive child labor against Defendant at its operations in the Seaboard Triumph Foods, LLC, plant in Sioux City, Iowa (Investigation No. 1988578). By entering into this Order, the Acting Secretary specifically does not waive her right to conduct any other investigations of Defendant and to assess additional

civil money penalties, pursuant to [29 U.S.C. § 216\(e\)](#), in relation to any such investigation, in accordance with paragraphs 17 and 21 above.

23. Defendant reserves the right to contest any additional assessment of future civil money penalties in any appropriate forum other than those civil money penalties assessed in paragraph 21.

Costs

24. Each party shall bear such other of its own costs and attorney's fees and expenses incurred by such party in connection with any stage of this case, including but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended.

Other Provisions

25. By entering into this Order, the parties acknowledge that the provisions contained herein are not intended to and do not bind the Acting Secretary and/or Defendant relating to any third party (*i.e.*, any individual and/or entity that is not a party to this Order). The parties specifically do not waive any claims, defenses, rights and/or legal positions available under applicable law, including any argument as to what evidence may be presented during any such proceedings, unless such are expressly waived in this Order. This applies both to any subsequent or future proceeding relating to this Order and to the parties' obligations thereunder, as well as to any future investigation and/or claims that the Acting Secretary may bring, including but not limited to additional claims of oppressive child labor, compliance or enforcement actions regarding the terms of this Order, contempt proceedings, and/or demands for civil money penalties, as to all of which the parties fully reserve their rights to contest and/or litigate.

DONE this 27th day of November 2024.



UNITED STATES DISTRICT JUDGE

Approved for Entry:



Adam Greer
Vice President of Operations
Qvest, LLC

FISHER PHILLIPS



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