

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JULIE A. SU, Acting Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

OM SOHAM, INC.; OM SOHAM OM, INC.;
SHRI KRSNA, INC.; SHRI RAM, INC.; SHRI
VEDMATA GAYATRI, INC.; SHRI
VISHNU, INC.; and RITESH PATEL,

Defendants.

Civil Action No. 4:23-cv-40119-MRG

CONSENT JUDGMENT AND ORDER

Plaintiff Julie A. Su, Acting Secretary of Labor, United States Department of Labor (the “Acting Secretary”), has filed a Complaint in this case under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. (the “FLSA”). Defendants Om Soham, Inc.; Om Soham Om, Inc.; Shri Krsna, Inc.; Shri Ram, Inc.; Shri Vedmata Gayatri, Inc.; Shri Vishnu, Inc. (collectively, the “Restaurants”) and Ritesh Patel have received a copy of that Complaint and waived service of process. (ECF Nos. 5–11). Defendants also acknowledge the assessment by the Acting Secretary of civil money penalties, have received notice and service of the issuance of civil money penalties, waive exception to those civil money penalties, and have agreed to pay civil money penalties in the amount of \$4,626.00, all under Section 16(e) of the FLSA, 29 U.S.C. § 216(e), and 29 C.F.R. §§ 578.1–578.4, 579.1–579.5, and 580.1–580.18.

The Court concludes that it has jurisdiction to enter this Consent Judgment and Order (the “Consent Judgment”), and the Acting Secretary and Defendants agree to its terms.

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 FLSA in any of the following manners:

1. Defendants shall not violate Sections 6 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206 and 215(a)(2) by paying any employees wages at rates less than the applicable minimum wage.

2. Defendants shall not violate Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2) by employing any nonexempt employees for hours worked longer than 40 in a workweek unless such employees receive compensation for their employment in excess of 40 hours at rates not less than one and one-half times the employees' regular rates of pay.

3. 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 FLSA, 29 U.S.C. § 211(c), and found in Title 29, Part 516 of the Code of Federal Regulations.

4. Defendants shall not, contrary to Section 15(a)(3) of the FLSA, 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 FLSA, has testified or is about to testify in any such proceeding, or has otherwise engaged in protected activity under the FLSA.

Further, the Court, finding that certain of the Defendants' employees and/or former employees are due compensation in the amount of \$63,604.98 (inclusive of gross overtime back

wages and liquidated damages), as shown on attached Exhibit A1, which is incorporated in and made a part hereof, it is ORDERED, ADJUDGED, and DECREED that:

5. Defendants are restrained from withholding payment of said overtime compensation, and are ordered, jointly and severally, to pay said overtime compensation and liquidated damages in accordance with the terms set forth herein. Defendants represent that, to the best of their knowledge and following diligent review and inquiry, they have been in compliance with the FLSA since September 30, 2021. In agreeing to resolve the amount of back wages and liquidated damages in this case, the Acting Secretary has relied on this representation.

6. The back wage and liquidated damages provisions of this Consent Judgment shall be deemed satisfied when Defendants deliver to the Acting Secretary payment totaling \$31,802.49 in gross back wages 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, and separate payment totaling \$31,802.49 in liquidated damages, 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 Consent Judgment after presentation of the United States Department of Labor's quarterly summary of employee payments made. Defendants shall pay the full amounts of back wages and liquidated damages due under this Consent Judgment no later than 30 days after the Court's entry of this Consent Judgment.

7. To comply with the payment provisions set forth above related to back wages and liquidated damages, Defendants may pay online by ACH transfer, credit card, debit card, or digital wallet by going to <https://pay.gov/public/form/start/77689032> or by going to <http://www.pay.gov> and searching for WHDBWNE. Defendants also have the option to provide

to the Acting Secretary certified checks, bank checks, or money orders made payable to “Wage and Hour Division—Labor,” and those checks or money orders shall be mailed to:

U.S. Department of Labor
Wage and Hour Division
Northeast Region
Att. Linda Estacio
1835 Market St, 19th Floor
Philadelphia, PA 19103

Checks or money orders shall have Case No. 1937876 written on the face of the checks or money orders. The Acting Secretary shall distribute all back wages and liquidated damages to the employees listed in Exhibit A1 in accordance with the amounts set forth therein. Funds received by the Acting Secretary pursuant to this Consent Judgment shall be credited first towards liquidated damages due and then towards back wages due.

It is also ORDERED, ADJUDGED, and DECREED that:

8. Defendants shall pay to the Acting Secretary, jointly and severally, civil money penalties pursuant to Section 16(e) of the FLSA, 29 U.S.C. § 216(e), and 29 C.F.R. §§ 578.1–578.4, 579.1–579.5, and 580.1–580.18, in the amount of \$4,626.00. The civil money penalty portion of this Consent Judgment will be deemed satisfied when Defendants deliver to the Acting Secretary \$4,626.00 in civil money penalties. Such payment shall be made no later than 30 days after the Court’s entry of this Consent Judgment.

9. To comply with the civil money penalty payment provisions set forth above, Defendants may pay online by ACH transfer, credit card, debit card, or digital wallet by going to <https://pay.gov/public/form/start/77734516> or by going to www.pay.gov and searching “WHD CMP Payment - NE Region.” Defendants also have the option to provide to the Acting Secretary a certified check, bank check, or money order, and that check or money order shall be mailed to:

U.S. Department of Labor

Wage and Hour Division
Northeast Region
Att. Linda Estacio
1835 Market Street, 19th Floor
Philadelphia, PA 19103

A check or money order shall be made payable to “Wage and Hour Division—Labor” with Case No. 1937876 written on the face of the check or money order.

10. If Defendants pay any of the amounts in this Consent Judgment by check or money order, a copy of said checks or money orders shall be mailed to the following address: U.S. Department of Labor, Wage and Hour Division, JFK Federal Building, 15 New Sudbury Street, Room 525, Boston, Massachusetts 02203, Attention: Assistant District Director.

11. On or before 10 days from the parties’ execution of this Consent Judgment, Defendants shall deliver to the United States Department of Labor at the Wage and Hour Division’s Boston, Massachusetts address set forth above, a statement showing the following: employers’ Federal ID number(s), the name of each employee listed in Exhibit A1, each employee’s telephone number(s), email address, mailing address, and social security number (only to the extent currently known by Defendants).

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

13. Defendants shall not, under any circumstances, solicit repayment of any amount paid to any employee in connection with this Consent 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.

14. Defendants agree to implement procedures to ensure the completeness and accuracy of all records of hours worked by and wages paid to all of Defendants' employees, including, but not limited to:

- a. Recording start and stop times all work performed by any employee;
- b. Not requesting, requiring, or otherwise causing employees to perform work that is not recorded in Defendants' time records, sometimes referred to as working "off the clock;"
- c. Recording all wages paid to each employee, including but not limited to cash wages;
- d. Posting at each of Defendants' locations within 30 days of entry of this Consent Judgment the attached Exhibit B1 (fact sheet entitled "Overtime Pay Requirements of the FLSA") and Exhibit C1 ("Notice to Employees"), which shall remain posted for least a period of one year.

15. Defendants further agree to provide adequate training to all managers and supervisor regarding the FLSA, including what constitutes hours worked, how to keep proper records, and how to properly compensate employees for hours worked over 40 in a workweek.

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

15. Nothing in this Consent Judgment precludes the Acting Secretary from using evidence discovered in the investigation that led to the Complaint in this case in any future investigation, enforcement action, or legal action.

SO ORDERED, this 13th day of January, 2025.

/s/ Margaret R. Guzman
Judge Margaret R. Guzman
United States District Judge
District of Massachusetts

FOR DEFENDANTS:

/s/ Jack K. Merrill
Om Soham, et al., and Ritesh Patel
By: Jack K. Merrill
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Dated: November 27, 2024

FOR PLAINTIFF:

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Dated: November 27, 2024