

STATE OF MINNESOTA  
Department of Labor and Industry  
Division of Labor Standards

In the Matter of the Investigation of:  
Bushel Boy Farms, LLP d/b/a Bushel Boy  
and Bushel Boy Farms, LLP d/b/a Bushel  
Boy Farms; Bushel Boy

To: Bushel Boy Farms, LLP d/b/a Bushel Boy  
1010 Dale St. North  
Saint Paul, MN 55117

**CONSENT ORDER**

Bushel Boy Farms, LLP d/b/a Bushel Boy  
Farms; Bushel Boy  
215 32<sup>nd</sup> Ave SW  
Owatonna, MN 55060

File No.: ICR-202200059

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**NOTICE: THE ATTACHED EXHIBIT 1 CONTAINS DATA CLASSIFIED AS PRIVATE  
OR CONFIDENTIAL**

Pursuant to Minn. Stat. §§ 175.20 and 177.27, subs. 4 and 7, the Commissioner (“Commissioner”) of the Minnesota Department of Labor and Industry is authorized to issue orders requiring an employer to (1) comply with Minn. Stat. § 177.25 and Minn. Rule 5200.0150, (2) cease and desist from practices violating Minn. Stat. § 177.25 and Minn. Rule 5200.0150, (3) take affirmative steps that in the judgment of the Commissioner will effectuate the purposes of Minn. Stat. § 177.25 and Minn. Rule 5200.0150, and (4) pay back wages, liquidated damages, compensatory damages, civil penalties and reimbursement of litigation and hearing costs related to violations of Minn. Stat. §. 177.25 and Minn. Rule 5200.0150.

The Commissioner and Bushel Boy Farms, LLP d/b/a Bushel Boy and Bushel Boy Farms, LLP d/b/a Bushel Boy Farms; Bushel Boy agree that the Compliance Order served May 10, 2024, may be resolved by this Consent Order as follows:

**A. PARTIES**

This Agreement applies to and is binding upon the following parties, collectively referred to herein as “the Parties”:

1. Nicole Blissenbach, in her official capacity as the Commissioner of the Minnesota Department of Labor and Industry, and the Minnesota Department of Labor and Industry (“Department”); and
2. Bushel Boy Farms, LLP d/b/a Bushel Boy and Bushel Boy Farms, LLP d/b/a Bushel Boy Farms; Bushel Boy (“Respondent”).

## B. SCOPE OF CONSENT ORDER AND RELEASE

1. **Effective Date.** As used herein, Effective Date means the date this Consent Order is signed by Respondent and the Commissioner.

2. **Release.** This Consent Order is made and entered into to resolve: (1) the Department's investigation of Respondent for the Department's Audit Period covering August 12, 2020 to August 12, 2022; and (2) the Compliance Order, which was brought in connection with the Department's investigation. The Parties agree to not subsequently litigate the Department's allegations asserted in the Compliance Order against Respondent.

3. **Claims Not Waived by the Commissioner; Other Remedies Reserved.** The Parties to this Consent Order acknowledge that by signing this Consent Order, the Commissioner, on behalf of herself and the Department, does not release or waive the following: (a) any rights or claims arising outside of the Audit Period (b) any right to bring a motion for the purposes of enforcing this Consent Order pursuant to section H, and (c) any rights or claims against ORO VALLEY AG SERVICES, LLC ("Oro Valley"). The Parties further acknowledge that this Consent Order shall not limit or affect the authority of the Commissioner or the Department to conduct investigations and take actions regarding any matter within the scope of the Commissioner's or the Department's authority. Nothing in this Consent Order shall relieve Respondent of the obligation to comply with all applicable Minnesota state laws and federal laws and regulations.

4. **Scope of the Consent Order.** The terms of this Consent Order apply to Respondent's facilities, business operations, and employees located in Minnesota. The terms of this Consent Order also apply to any facilities or business operations opened or acquired by Respondent in Minnesota after the Effective Date of this Consent Order.

5. **Limited Scope and Release.** The terms of this Consent Order apply to the Department's Compliance Order against Respondent only.

## C. STIPULATED FACTS

1. The audit period for this investigation ran from August 12, 2020 to August 12, 2022 ("Audit Period").

2. Respondent is an employer with at least one employee working in Minnesota during the Audit Period.

3. Respondent's registered office address with the Secretary of State is 1010 Dale Street North, Saint Paul, MN 55117, and its chief executive office address is 215 32<sup>nd</sup> Ave SW, Owatonna, MN 55060. The individual contact for the registered agent is listed as Ryan Baker c/o C T Corporation System, Inc.

4. During the Audit Period, Respondent contracted with Oro Valley to supply employees for Respondent's greenhouse facilities in Owatonna, MN and to pay such employees in accordance with all applicable laws and regulations.

5. During the Audit Period Oro Valley supplied domestic migrant and H-2A visa workers ("affected employees") for Respondent's greenhouse facilities in Owatonna, MN.

6. Respondent and Oro Valley jointly employed the affected employees supplied by Oro Valley to perform work in Respondent's greenhouse facilities in Owatonna, MN.

7. Throughout the Audit Period, the affected employees working at Respondent's greenhouse facilities in Owatonna, MN routinely worked in excess of 48 hours per workweek.

8. Throughout the Audit Period, Respondent and Oro Valley failed to pay 94 affected employees supplied by Oro Valley working at Respondent's greenhouse facilities in Owatonna, MN one and one-half times their regular rate of pay for all hours worked in excess of 48 hours in a workweek.

9. On May 10, 2024, the Department served Respondent and Oro Valley with a Compliance Order, along with a Statement of Back Wages. An optional settlement conference was scheduled for May 20, 2024.

10. On May 20, 2024, Department representatives met with representatives of Respondent virtually via Microsoft Teams to discuss the Compliance Order.

11. On May 22 2024 Respondent contested the Compliance Order by submitting a Written Notice of Objection to the Compliance Order. Oro Valley did not contest the Compliance Order or provide any response to the Department.

12. The Parties continued settlement discussions after May 20, 2024. As a result, the Parties were able to resolve this matter and agree to enter into this Consent Order.

#### **D. VIOLATIONS**

Based upon the above STIPULATED FACTS, the Parties agree the following violations of the law occurred:

1. Respondent violated Minn. Stat. § 177.25 by Respondent and Oro Valley failing to pay 94 employees one and one-half times their regular rate of pay for all hours worked in excess of 48 hours in a workweek; and

2. Respondent violated Minn. Rule 5200.0150 by Respondent and Oro Valley failing to issue overtime pay no later than the payday immediately following their regular payday for the pay period in which it was earned.

#### **E. GROUNDS FOR CONSENT ORDER CONDITIONS**

Respondent agrees that the Commissioner is authorized to issue this Consent Order requiring Respondent to pay back wages, to take affirmative steps to effectuate the purposes of the statutes violated as specified under the CONDITIONS below, and to comply with Minn. Stat. § 177.25 and the related administrative rules.

## F. CONDITIONS

Based upon the above sections, Respondent agrees that the Commissioner should issue a Consent Order in accordance with the following terms:

1. **Back Wages.** Respondent agrees to pay the employees listed in the attached Exhibit 1 the back wages earned in the amounts set forth therein. Exhibit 1 is specifically incorporated herein and made a part of this Consent Order.

2. **Method of Payment and Due Date.** The total amount of gross back wages due is **\$97,242.84**. Respondent shall pay the back wages due to each employee in the amount specified in Exhibit 1 and provide the following documentation to the Commissioner to effectuate payment on or before **60 days from the Effective Date** (“Due Date”):

- a. individual checks made payable to each employee listed on Exhibit 1 for the gross amount listed for each employee less applicable FICA, Federal and State withholdings;
- b. a wage and earning statement for each employee set forth in Exhibit 1; and
- c. a full alphabetical list of all employees, last name first, entitled to back wages with their last known address and phone number(s).

3. The checks and documentation shall be mailed or delivered to the Department on or before 4:30 p.m. on the Due Date to:

Department of Labor and Industry  
Division of Labor Standards  
Attn: Prairie Bly  
443 Lafayette Road N.  
St. Paul, MN 55155

4. **Liquidated Damages.** Respondent agrees to pay the employees listed in the attached Exhibit 1 liquidated damages. The liquidated damages payable to each employee are equal to the gross back wages payable to each employee as indicated in Exhibit 1. Respondent shall submit to the Department a second check payable to each employee listed in Exhibit 1 for the amount of liquidated damages along with a 1099 form to each employee for the liquidated damages amount. These checks and 1099 forms shall be delivered at the same time as the checks and documents referenced in Condition 2 above.

5. **Civil Penalties.** The Department's Compliance Order imposed a civil penalty of **\$47,000**, which is hereby stayed. If Respondent fails to fully comply with this Consent Order or has a future violation of the Minnesota Fair Labor Standards Act (MFLSA) or Minnesota Statutes, Ch. 181 within the next three (3) years from the Effective Date of this Consent Order, then the full amount of the stayed civil penalty shall be due in full to the Department within 30 days of the Department providing written notice of a breach of the terms of this Consent Order or a final order being issued to Respondent for violation(s) of MFLSA or Minnesota Statutes, Ch. 181.

### **G. VACATION OF ORDER**

Based upon the above sections, the Commissioner vacates the Compliance Order served on May 10, 2024 with respect to Respondent Bushel Boy Farms, LLP d/b/a Bushel Boy and Bushel Boy Farms, LLP d/b/a Bushel Boy Farms; Bushel Boy. Respondent's corresponding Written Notice of Objection to the Compliance Order is withdrawn.

### **H. JUDICIAL RELIEF**

Pursuant to Minn. Stat. §177.27, subd. 5, if Respondent fails to comply with this Consent Order, the Commissioner may bring an action in District Court to enforce or require compliance with this Consent Order without further notice or additional proceedings. The Commissioner may file and enforce any unpaid portion of the penalty as a judgment in district court without further notice or additional proceedings. *See* Minn. Stat. § 16D.17. Additionally, interest shall accrue on and be added to the unpaid balance from the date that payment is due under the terms of this Order until it is paid at an annual rate computed in accordance with Minn. Stat. § 549.09. *See* Minn. Stat. § 177.27, subd. 7.

### **I. WAIVER OF RIGHTS**

For the purposes of this Consent Order, Respondent waives all procedures and proceedings before the Commissioner, Office of Administrative Hearings, or District Court to which it may be entitled pursuant to the Minnesota and United States Constitutions, statutes, or rules. This includes waiver of the right to dispute the STIPULATED FACTS in section C above, the VIOLATIONS set forth in section D above, and/or the CONDITIONS set forth in section F above in a contested case proceeding pursuant to Minnesota Statutes, Ch. 14. If Respondent defaults on any Conditions in section F, Respondent agrees that, without further notice to or an appearance by it, the Commissioner may issue an order containing all the terms and amounts listed in section F above and an additional equal amount as liquidated damages, plus civil penalties, reimbursement of fees and costs, or any combination thereof, plus interest from the date of the order. Default occurs if Respondent fails to satisfy every Condition set forth in section F by the Due Date. Respondent waives the right to any judicial review of the Consent Order by appeal, writ of certiorari, or otherwise.

### **J. ADDITIONAL ENFORCEMENT ACTION**

This Consent Order pertains only to the facts specified herein and shall not in any way limit the initiation of an enforcement proceeding based upon unrelated or unknown facts or violations.

This Consent Order may be used in the future against Respondent to prove repeated violation(s) of the MFLSA and/or additional statutory provisions stated in Minn. Stat. §177.27, subd. 4. A repeat or willful violator is subject to additional civil penalties of up to \$10,000 for each violation for each employee.

## K. GENERAL TERMS

1. **Government Data.** Pursuant to the Minnesota Government Data Practices Act, this Consent Order (other than any attached exhibits) is classified as public data upon its issuance by the Commissioner. All documents in the record shall maintain the data classification to which they are entitled pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes, Ch. 13. The documents shall not, to the extent they are not already public documents, become public merely because they are referenced herein.

2. **Voluntary Agreement.** The Parties acknowledge that no person has exerted undue pressure on them to sign this Consent Order. Each party is voluntarily choosing to enter into this Consent Order after arm's length negotiations. The Parties acknowledge that they have read and understood the terms of this Consent Order, that they have been represented by legal counsel and that they are voluntarily entering into this Consent Order to resolve the dispute among them.

3. **Severability.** The provisions of this Consent Order will be severable, and should any provisions be declared by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Consent Order will remain in full force and effect.

4. **Entire Agreement.** This Consent Order constitutes the entire agreement between the parties relating to: (1) the Department's investigation for the Audit Period; and (2) the Department's Compliance Order. No party has relied upon any promises or representations that are not stated in this document. No changes to this Consent Order are valid unless they are in writing, identified as an amendment to this Consent Order, and signed by all parties. There are no inducements leading to the execution of this Consent Order except as herein explicitly contained.

5. **Warranty.** The persons signing this Consent Order warrant that they have full authority to enter into this Consent Order on behalf of the party each represents, and that this Consent Order is valid and enforceable as to that party.


6. **Governing Law.** This Consent Order shall be construed and interpreted in accordance with the laws of the State of Minnesota.

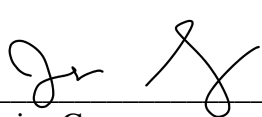
7. **Counterparts.** This Consent Order may be executed in multiple counterparts, which shall be construed together as if one instrument. Any party is entitled to rely on an electronic or facsimile copy of a signature as if it were an original.

8. **Service.** A copy of this Consent Order shall be served by regular first-class mail and first-class certified mail upon Respondent at the addresses listed above. The Consent Order shall be effective and deemed issued when it is signed on behalf of the Commissioner.

Bushel Boy Farms, LLP d/b/a Bushel Boy  
and Bushel Boy Farms, LLP d/b/a Bushel  
Boy Farms; Bushel Boy

Minnesota Department of Labor and Industry

By:   
Chuck Tryon  
Its President

By:   
Jessica Grosz  
Labor Standards Division Director

Dated: 6/7/24

Dated: 6/11/2024

Upon consideration of the forgoing Consent Order and based upon all the facts, records and proceedings herein, the Commissioner makes the following:

**ORDER**

NOW THEREFORE, IT IS HEREBY ORDERED that all terms of the Consent Order are approved and adopted.

Dated: 6/11/2024

NICOLE BLISSENBACH  
Commissioner

By:   
Jessica Grosz, Director  
Division of Labor Standards  
Minnesota Department of Labor and Industry