

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

CONSENT ORDER

In the Matter of the Investigation of:
GrapeTree Medical Staffing LLC

File No.: ICR-202200047

To: GrapeTree Medical Staffing LLC
ATTN: Chris Friedrichs
1010 DALE ST N
Saint Paul, MN 55117-5603

GrapeTree Medical Staffing LLC
ATTN: Chris Friedrichs
1003 23rd Street
Milford, IA 51351

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

Pursuant to Minn. Stat. §§ 175.20 and 177.27, subds. 4 and 7, the Commissioner (“Commissioner”) of the Minnesota Department of Labor and Industry is authorized to (1) issue orders requiring an employer to comply with Minnesota Statutes, chapter 181; (2) issue orders requiring an employer to cease and desist from practices that violate chapter 181; and (3) assess back wages, liquidated damages, and reimbursement of litigation and hearing costs.

The Commissioner and GrapeTree Medical Staffing LLC agree that the Compliance Order served February 12, 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. GrapeTree Medical Staffing LLC (“Respondent”).

B. RELEASE

1. **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 July 12, 2020 to July 12, 2022 (the "Audit Period"); and (2) the February 12, 2024 Compliance Order (the "Compliance Order"), which was issued in connection with the Department's investigation. The Parties agree that they will not subsequently litigate the Department's allegations asserted in the Compliance Order against Respondent.

In consideration for Respondent's obligations under this Consent Order, the Department shall release and discharge Respondent from all claims, charges, or causes of action that the Department may have against Respondent for claims arising under the Minnesota Payment of Wages Act and related statutes in relation to the individuals listed in Exhibit 1 during the Audit Period. This release shall include any action for civil penalties due under the Act, as well as any claim for costs incurred by the Department in this investigation.

2. **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 occurring outside of the Audit Period; and (b) any right to bring a motion for the purposes of enforcing this Consent Order pursuant to Section H. 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 with respect to any matter involving claims not waived, that are within the scope of the Commissioner's or the Department's authority. Nothing in this Consent Order shall relieve Respondent of its obligations to comply with all applicable Minnesota state laws, and federal laws and regulations.

C. STIPULATED FACTS

Procedural History.

1. The Audit Period for the Department's investigation ran from July 12, 2020 to July 12, 2022 ("Audit Period").
2. Respondent is an employer with at least one employee working in Minnesota.
3. Respondent's registered office address with the Minnesota Secretary of State is 1010 Dale Street North, St. Paul, MN 55117-5603.
4. On July 22, 2022, the Department mailed a Demand for the Submission of Records ("Demand") to Respondent at its registered office address. The records and information responsive to the Demand were due to the Department by August 4, 2022. In response to the Demand, on August 1, 2022, Respondent requested an extension, which was granted. Respondent substantially complied with the Demand, in part by supplying an electronic payroll register to the Department on August 18, 2022. Respondent provided a supplemental response with additional information and data on November 3, 2022.

5. On February 12, 2024, the Department served Respondent with a Compliance Order, along with a Statement of Back Wages. An optional settlement conference was scheduled for February 26, 2024.

6. On February 26, 2024, Department representatives met with representatives of Respondent virtually via Microsoft Teams to discuss the Compliance Order.

7. On February 27, 2024, Respondent contested the Compliance Order by submitting a Written Notice of Objection to the Compliance Order.

8. The Parties continued settlement discussions after February 26, 2024. As a result, the Parties were able to resolve this matter and agree to enter into this Consent Order.

Booking Fee System.

9. During the Audit Period, Respondent implemented a booking fee system.

10. When an Employee would sign up for a shift to work as a healthcare provider in Minnesota, Respondent's system would trigger a booking fee ranging from \$50 to \$200, which would be charged to the employee as described in paragraphs 12 through 14 below.

11. Employees were required to acknowledge and agree to the booking fee procedure during their onboarding processes. Employees also had to agree that they understood the booking fee policy before they scheduled each shift. If an employee did not agree to the booking fee procedure, that employee could not secure a shift.

12. If an employee completed a scheduled shift, the booking fee was not processed.

13. If an employee canceled the shift less than 72 hours before it was scheduled to begin, or otherwise did not complete the shift, the booking fee would be processed and retained by Respondent. Respondent would deduct from a single paycheck the lesser of ten percent of an employee's gross wages or the booking fee balance due. A single booking fee could therefore be recouped through several paychecks in some instances.

14. Respondent deducted the booking fees described above from an employee's wages after calculating an employee's income and withholding income taxes.

15. When Respondent determined it would keep a booking fee, Respondent did not subsequently obtain an additional voluntary written authorization from the affected employee to deduct the booking fee from the employee's wages.

16. During the Audit Period, Respondent retained booking fees from 997 employees working in Minnesota. The booking fees were deducted from their post-tax wages.

D. VIOLATIONS

Based upon the above stipulated facts and the Department's Compliance Order, the Department found that the following violations of the law occurred, which Respondent disputes:

1. Respondent violated Minn. Stat. § 181.031 by demanding and receiving the partial wages of 997 employees in exchange for giving employment to and securing employment for those employees.
2. Respondent violated Minn. Stat. § 181.79 by making deductions from wages due or earned by 997 employees for claimed indebtedness without having pre-deduction voluntary written authorizations from the employees.
3. Respondent violated Minn. Stat. § 181.101 by failing to pay all wages earned to employees at least once every 31 days on a regular payday designated in advance by Respondent.

E. GROUNDS FOR CONSENT ORDER CONDITIONS

Respondent agrees that the Commissioner is authorized to issue this Consent Order requiring Respondent to pay alleged unpaid back wages and liquidated damages as specified under the conditions below and to comply with Minnesota Statutes, chapter 181.

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 gross 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 back wages to be paid is **\$181,739.25**. Respondent shall pay back wages to each employee in the amount specified in Exhibit 1 and provide the following documentation as proof of payment to the Commissioner on or before **July 22, 2024** ("Due Date"):
 - a) individual checks made payable to each employee listed on Exhibit 1 for the amount listed for each employee; and
 - b) a full alphabetical list of all employees listed on Exhibit 1 with their last known address and phone number(s).
3. The checks and documentation shall be mailed or delivered on or before 4:30 p.m. on the Due Date to:

Department of Labor and Industry
Division of Labor Standards
Attn: Sara Ellstra
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 eighty-five percent (85%) of the 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 damage amount. These checks shall be delivered at the same time as the checks and documents referenced in Condition 2 above. The 1099 forms shall be delivered as soon as practicable, and no later than January 31, 2025.

G. VACATION OF ORDER AND WITHDRAWAL OF OBJECTION

Based upon the above sections, the Commissioner vacates the Compliance Order served on February 12, 2024. 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. Additionally, interest shall accrue on and be added to the unpaid balance from the date this Order is signed 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 described in Section D above, and/or the conditions set forth in Section F above in a contested case proceeding pursuant to Minn. Stat. Ch. 14. If Respondent defaults on the requirements 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, including 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 outside of the Audit Period or the Compliance Order. This Consent Order may be used in the future against Respondent to prove repeated violation(s) of statutory provisions stated in Minn. Stat. § 177.27, subd. 4. A repeat or willful violator is subject to additional civil penalties of up to \$10,000.00 for each violation for each employee.

K. GENERAL TERMS

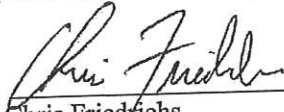
1. **No Admission of Liability.** Respondent disputes and does not admit the violations of law alleged by the Department and is entering into this Agreement for the sole purpose of bringing this matter to an efficient resolution. Nothing in this Consent Order shall be construed as an admission of any wrongful or unlawful act.
2. **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. Data related to the above-captioned investigation shall maintain the data classification to which they are entitled pursuant to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13. Documents shall not, to the extent they are not already public documents, become public merely because they are referenced herein.
3. **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 understand 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.
4. **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.
5. **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.
6. **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.

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

8. **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.

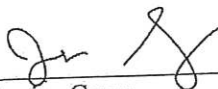
9. **Service.** A copy of this Consent Order shall be served by regular first-class mail and first-class certified mail upon Respondent at the addresses listed above. The Consent Order shall be effective and deemed issued when it is signed on behalf of the Commissioner.

GrapeTree Medical Staffing LLC

By: 
Chris Friedrichs
Its: Chief Financial Officer

Dated: 6/26/24

Minnesota Department of Labor and Industry

By: 
Jessica Grosz
Director, Division of
Labor Standards

Dated: 6/14/2024

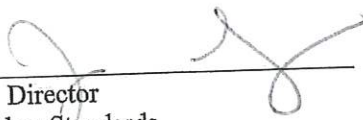
Upon consideration of the foregoing Consent Order and based upon all the facts, records and proceedings herein, the Commissioner makes the following:

ORDER

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

Dated: 6/27/24

Nicole Blissenbach
Commissioner

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