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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES, WEST DISTRICT
11

12 PEOPLE OF THE STATE OF CALIFORNIA,
ex rel. EDMUND G. BROWN JR., Attorney
13 General of the State of California,

14 PLAINTIFF,

15 vs.

16 NDR Inc., a California corporation dba "Gold
Rush Auto Spa"; SIKDER GROUP, INC., a
17 California corporation dba "Laguna Hills Car
Wash"; ZMS GROUP INC., a California
18 corporation dba "Crown Valley Car Wash"; M.
SIKDER HOLDINGS, INC., a California
19 corporation dba "Marina Car Wash"; ZMS,
INC., a California corporation dba "Laguna
20 Hills Union 76 Station"; ZNM HOLDINGS,
INC., a California corporation dba "Wash &
21 Go Hand Wash", "Wash & Go Hand Carwash
Corp." and "Irvine Auto Spa"; GRAS II, INC.,
22 a California corporation dba "Sponges Car
Wash"; SIKDER, INC., a California
23 corporation dba "Bonus Car Wash"; GRAS,
INC., a California corporation dba "Gold Rush
24 Auto Spa II"; DIPU HAQUE", an individual
aka "Dipu Haque" and "Dipu Haque Sikder";
25 and DOES 1-100,

26 DEFENDANTS.
27
28

CASE NO.

**COMPLAINT FOR INJUNCTIVE
RELIEF, RESTITUTION AND CIVIL
AND STATUTORY PENALTIES FOR:**

1. Unfair Competition: Business &
Professions Code section 17200 et seq.
2. "Waiting Time Penalties": Statutory
Penalties under Labor Code section 203
3. "Waiting Time Penalties": Statutory
Penalties under Labor Code section 203.1

1 Plaintiff, the People of the State of California, by and through Edmund G. Brown Jr., as
2 Attorney General of the State of California, is informed and believes, and on such information
3 and belief alleges:
4

5 INTRODUCTION

6 1. This action is brought by Plaintiff, the People of the State of California, ex rel.
7 Edmund G. Brown Jr., Attorney General of the State of California, against defendant entities (in
8 addition to certain individuals) operating car wash businesses in the State of California to stop
9 them from engaging in ongoing violations of the California Labor Code and failing to pay taxes,
10 which results in unfair competition. This action seeks to enjoin all Defendants from engaging in
11 unfair competition and to pay restitution and applicable penalties. This action also seeks "waiting
12 time" penalties directly under Labor Code sections 203 and 203.1.

13 2. Defendant corporate entities¹, referred to throughout this complaint as "Car
14 Wash Employer Defendants," engaged in a pattern and practice of violating state law including:
15 failure to pay all wages due employees, violations of the Labor Code's car wash licensing
16 provisions, failure to pay state unemployment, taxes, and failing to provide all employees with a
17 correct itemized written statement reflecting their correct gross wages, the number of hours the
18 employee worked and other information.

19 3. Plaintiff is informed and believes that the Defendants named in their capacity as
20 individuals control the entities which make up the Car Wash Employer Defendants group. Those
21 individuals personally, directly participated in the conduct attributed in this Complaint to the Car
22 Wash Employer Defendants.

23 4. Plaintiff is informed and believes that at all relevant times, each Individual
24 Defendant knew or realized that the Car Wash Employer Defendant(s) were engaging in or
25 planned to engage in the violations of law alleged in this complaint. Knowing or realizing that
26

27 ¹ The "Car Wash Employer Defendants" group consists of: NDR Inc.; Sikder, Inc.; ZMS
28 Group Inc.; M. Sikder Holdings, Inc.; ZMS, Inc.; Sikder Empire, Inc.; ZNM Holdings, Inc.;
GRAS II, Inc.; GRAS, Inc. and Does 1-20.

1 the Car Wash Employer Defendants were engaging in such unlawful conduct, each Individual
2 Defendant nevertheless facilitated the commission of those unlawful acts. Each Individual
3 Defendant encouraged, facilitated, or assisted in the commission of the unlawful acts, and
4 thereby, aided and abetted the Car Wash Employer Defendants in the unlawful conduct.

6 **PARTIES**

7 Plaintiff People of the State of California

8 5. Plaintiff EDMUND G. BROWN JR. is the Attorney General of the State of
9 California and is the chief law officer of the State. He is statutorily authorized to bring actions in
10 the name of the People of the State of California to enforce California's statutes governing unfair
11 competition and to enforce Chapter 1, Article 1 of the California Labor Code.

12 Carwash Employer Defendants

13 6. Defendant NDR INC. is a California corporation doing business in Sacramento
14 County, State of California, as "Gold Rush Auto Spa."

15 7. Defendant SIKDER, INC., is a California corporation doing business in the
16 County of Orange, State of California as "Bonus Car Wash."

17 8. Defendant ZMS GROUP INC., is a California corporation doing business in
18 Orange County, State of California as "Crown Valley Car Wash."

19 9. Defendant M. SIKDER HOLDINGS, INC., is a California corporation doing
20 business in the State of California, Los Angeles County, as "Marina Car Wash."

21 10. Defendant ZMS, INC., is a California corporation doing business in the State of
22 California, Orange County, as "Laguna Hills Union 76 Station."

23 11. Defendant ZNM HOLDINGS, INC., is a California corporation doing business
24 in the State of California, Orange County, as "Wash & Go Hand Wash," Wash & Go Hand
25 Carwash Corp." and "Irvine Auto Spa."

26 12. Defendant GRAS II, INC., is a California corporation doing business in the
27 State of California, Contra Costa County, as "Sponges Car Wash."

13. Defendant GRAS, INC., is a California corporation doing business in the State of California, Sacramento County, as “Gold Rush Auto Spa II.”

14. At all relevant times, each Car Wash Employer and Individual Defendant has operated, and currently operates, as an integrated enterprise on account of their interrelation of operations, common management, centralized control of labor relations, and common ownership or financial control.

15. At all relevant times, each Car Wash Employer Defendant and each Individual Defendant, including those named herein as Doe defendants, have operated, and currently operate, as a single business enterprise. Though such Car Wash Employer and Individual Defendants have multiple corporate, entity, and individual personalities, there is but one enterprise and this enterprise has been so handled that it should respond, as a whole and jointly and severally by each of its constituent parts, for the acts committed by defendants. Each corporation, individual and entity has been, and is, merely an instrument and conduit for the others in the prosecution of a single business venture. There is such a unity of interest and ownership among these Car Wash Employer and Individual Defendants that the separate personalities of the corporations, individuals and entities no longer exist. If the separate acts of the Car Wash Employer Defendants are treated as those of each Car Wash Employer Defendant and Individual Defendant alone, an inequitable result will follow in that Car Wash Employer and Individual Defendants will evade and effectively frustrate the statutes and statutory schemes set forth below which are meant to protect employee and the public's welfare, and defendants separately may have insufficient assets to respond to the ultimate award of restitution, costs, and penalties entered in this case. Further, an award of penalties against one or more of the Car Wash Employer and Individual Defendants alone will not accurately reflect the amount necessary for punishment of the entire business enterprise conducted by such Defendants.

Individual Defendants

16. Defendant DIPU HAQUE aka “Dipu Haque” and “Dipu Haque Sikder” is an individual residing in Los Angeles County, in the State of California.

17. The true names and capacities of defendants sued in the complaint under the fictitious names of DOES 1 through 100, inclusive, are unknown to Plaintiff who therefore sues such defendants by such fictitious names. Plaintiff will amend this complaint to show the true names of each when the same has been ascertained. Defendants sued herein as DOES 1 through 100 are, and at all relevant times were, engaged with the remaining Defendants in the activities and conduct complained of herein. Does 1-30 are designated as "Car Wash Employer Defendants." Does 31-60 are designated as "Individual Defendants." Designation for Does 61-100 will be made at time of service on the Doe defendant, with notification of such designation thereafter filed with the Court.

FIRST CAUSE OF ACTION

(Unfair Competition: Business & Professions Code section 17200 et seq.)

Against All Car Wash Employer, and All Individual Defendants

18. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 17 of this complaint as if set fully herein.

19. Defendants have violated and continue to violate the Business & Professions Code, section 17200, et seq., by engaging in acts of unfair competition including, but not limited to, the following:

a. failing to register as a car wash car washing & polishing employer pursuant to Labor Code section 2054 and California Code of Regulations, Title 8, Sections 13680 through 13693, and to post the \$15,000 bond required by Labor Code section 2055(b) and nonetheless continuing to conduct business in violation of Labor Code section 2060. Until recently, all Car Wash Employers operated without a license. Currently, Defendants ZNM Holdings, Inc. and GRAS II, Inc. continue to operate without a license.

b. failing to pay employees the minimum wage for all hours they were suffered or permitted to work, in violation of Labor Code sections 1194 and 1182.12 and applicable Industrial Welfare Commission Orders, including but not limited to Industrial Welfare Commission Wage Order No. 9, subdivision 4;

1 c. failing to pay employees overtime pay in violation of Labor Code section
2 510 and applicable Industrial Welfare Commission Orders, including but not limited to Industrial
3 Welfare Commission Wage Order No. 9, subdivision 3;

4 d. failing to provide employees with a 10 minute break during each four
5 hours worked each day an employer fails to provide a required break it is liable for an additional
6 hour pay. (Lab. Code, § 226.7; Wage Order 9, subd. (12)).

7 e. repeatedly making payment of wages with checks drawn on insufficient
8 funds, in violation of Labor Code section 212, a misdemeanor under Labor Code section 215;

9 f. failing to provide employees with an itemized written statement reflecting
10 their gross wages, the number of hours the employee worked, piece rate earnings, the applicable
11 piece rate, all deductions taken, net wage earned, the inclusive dates of the pay period, the name
12 of the employee and his or her social security number, and the hourly rate in effect during the pay
13 period, in violation of Labor Code section 226;

14 h. failing to withhold and pay state income tax contributions, state
15 unemployment insurance contributions, and contributions to the state disability fund in violation
16 of Unemployment Insurance Code sections 976, 986, 987, 1110, and 13020;

17 i. failing to pay timely wages on the regularly scheduled pay date, as
18 required by Labor Code section 204.

19 j. failing to pay all wages earned but unpaid at the time of termination of
20 employment, as required by Labor Code sections 201 and 202.

21 20. Plaintiff is informed and believes and thereon alleges that individual
22 Defendants Dipu Haque, and Does 41-60 directly participated in, and/or authorized and ratified
23 the activities described in paragraph 19, above.

24 21. Through Defendants' unfair, fraudulent and unlawful practices expressed in
25 paragraph 19(a) through (j), Defendants engaged in unfair competition, and an injunction is
26 proper.

27 22. Through Defendants' unfair, fraudulent and unlawful practices expressed in
28 paragraph 19(a) through (j), Defendants employees during the past four years suffered substantial

monetary losses and are entitled to restitution for the losses in an amount not less than \$1,700,000. The losses include but are not limited to:

- a. wages not paid to workers, at no less than the legal minimum wage, for work defendants authorized, requested or suffered or permitted;
- b. overtime premium pay for overtime worked but not paid;
- c. premium or "penalty" pay as expressed in Wage Order 9 for each occasion an employee was not given a rest period for each four hours worked.
- d. costs and fees associated with checks drawn upon insufficient funds.

SECOND CAUSE OF ACTION

(Statutory Penalties under Labor Code section 203)

Against All Car Wash Employers

23. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 19 of this complaint as if set fully herein.

24. Car Wash Employer Defendants willfully refused, and continue to refuse, to pay in a timely manner (as required by Labor Code sections 201 and 202) all wages due and owing to their former employees who quit or were discharged from employment.

25. Plaintiff therefore requests statutory penalties as provided by Labor Code section 203 in an amount to be ascertained at trial but no less than \$572,000, measured by the amount of each terminated or quitting workers' daily wages, at no less than the minimum wage, continued up to thirty days.

THIRD CAUSE OF ACTION

(Statutory Penalties under Labor Code section 203.1)

Against All Car Wash Employers

26. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 19 of this complaint as if set fully herein.

27. Car Wash Defendants often paid their employees' wages in the regular course of business, as well as employees' final wages, with checks drawn upon insufficient funds.

28. Car Wash Defendants employees (or their assigns or agents) presented the checks for payment within 30 days of employees' receipt of the checks; however, the checks were refused payment because they were drawn on insufficient funds.

29. The employees have not brought action to recover the service charge authorized by section 1719 of the Civil Code.

30. Through Defendants' practices expressed in paragraphs 27 through 28, above, Defendants are liable for the amount of no less than \$ 172,000 in statutory penalties, measured by the amount of each affected employees' daily wages continued from the time the employee presented the check for payment until such time that the check was paid, with the penalty not to exceed 30 days' wages.

PRAYER FOR RELIEF

WHEREFORE, The People pray for the following relief:

As to the First Cause Of Action –

Against All Car Wash Employer and All Individual Defendants

(Violation of Business & Professions Code section 17200 et seq.)

A. Car Wash Employer Defendants, Individual Defendants and each of their successors, agents, representatives, employees and all persons acting in concert with them be enjoined and restrained from engaging in unfair competition as defined in Business and Professions Code section 17200, including but not limited to the types of acts or practices alleged in the foregoing complaint;

B. Car Wash Employer Defendants and Individual Defendants pay restitution for wages lost on account of their violations of the law and other amounts lost as expressed in this complaint in an amount not less than \$1,700,000;

1 C. Car Wash Employer Defendants and Individual Defendants pay civil penalties
2 as for each violation of Business and Professions Code section 17200 as expressed in the
3 complaint for the amount not less than \$4,200,000;

4
5 **As to the Second Cause of Action –**

6 **Against All Car Wash Employer Defendants**

7 **(Statutory Penalties Under Labor Code section 203)**

8 D. Car Wash Employer Defendants Pay Statutory Penalties pursuant to Labor
9 Code section 203 in an amount to be ascertained, but no less than \$572,000;

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11 **As to the Third Cause of Action –**

12 **Against All Car Wash Employer Defendants**

13 **(Statutory Penalties Under Labor Code section 203.1)**

14 E. Defendants pay statutory penalties under Labor Code section 203.1 as for each
15 violation of Labor Code section 204 as expressed in the complaint for the amount not less than
16 \$172,000.

17 **As to All Causes of Action Herein**

18 F. The Court retains jurisdiction in this matter;

19 G. Defendants be required to disclose any and all information and records needed
20 to enforce a judgment and/or injunction in this case;

21 H. The People recover the costs of investigation and costs of the action, and;

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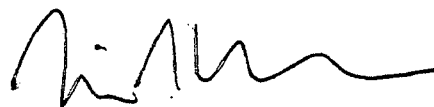
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I. Such other and further relief as the Court deems appropriate and just.

Dated: October 1, 2010

Respectfully Submitted,

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MARK J. BRECKLER
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