

ATTORNEY GENERAL OF THE STATE OF NEW YORK
LABOR & CIVIL RIGHTS BUREAUS

IN THE MATTER OF THE INVESTIGATION OF LETITIA
JAMES, ATTORNEY GENERAL OF THE STATE OF NEW
YORK, of

5 SPRING STREET CORP., D/B/A SWEET AND VICIOUS,
and HAKAN KARAMAHMUTOGLU

ASSURANCE OF
DISCONTINUANCE
PURSUANT TO
EXECUTIVE LAW
§ 63(15)

AOD No. # 22-023

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) commenced an investigation pursuant to New York Executive Law § 63(12) to determine whether 5 Spring Street Corp., d/b/a Sweet and Vicious, and Hakan Karamahmutoglu (collectively referred to herein as the “Respondents”) engaged in activity in violation of the New York State Human Rights Law (“NYSHRL”), New York Executive Law § 296 *et seq.*, New York City Human Rights Law (“NYCHRL”), N.Y.C. Admin. Code § 8-107(1)(a), Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e(2)(a)(1), the Fair Labor Standards Act, 29 U.S.C. 203 *et seq.* (“FLSA”), New York Labor Law §§ 652(1), 198(1-a), (1-b) and (1-d), and 12 N.Y.C.R.R. §§ 142-2.6, 142-2.7 and 142-3.2, and whether a civil proceeding or action for any such violation should be instituted against Respondents pursuant to New York Executive Law § 63(12).

This Assurance of Discontinuance (“AOD”) contains the findings of the OAG’s investigation and the relief agreed to by the OAG and the Respondents. For purposes of resolving the OAG’s inquiry, the Respondents have agreed to enter into this AOD to avoid the further expense of time and resources involved in this investigation and any future litigation.

FINDINGS

1. Sweet and Vicious is a bar located in the Nolita area of Manhattan. It is owned by Hakan Karamahmutoglu.
2. Over the course of its investigation, the OAG interviewed numerous former employees of the Respondents; issued a subpoena to the Respondents; reviewed documents provided by the Respondents; and identified more than one dozen potential claimants.
3. Former employees described a discriminatory hiring policy; sexual harassment by a barback, managers, and customers; unequal pay; tip theft; and failure to pay agreed upon wages, minimum wages, and overtime.
4. The findings herein do not constitute admissions, and this AOD is not to be used by any third parties against Respondents. This AOD does not constitute admissible evidence in the litigation contemplated in Paragraphs 32 and 33 below.

Discrimination and Harassment

Gender Discrimination

5. Sweet and Vicious predominantly hired men as managers.
6. The female lead bartender did managerial work, including hiring, setting schedules, and communicating with the staff, but she was paid a lower hourly rate than the male managers.
7. The bar maintained a stricter code of conduct for women. Female bartenders were not allowed to have their phones or drink on the job while male managers were permitted to use their phones and drink alcohol at work.

8. Several female bartenders reported that they were not permitted to take bathroom breaks, and they often worked eight hour shifts with no breaks. The male managers were not subject to the same schedules.
9. Karamahmutoglu insisted on hiring bartenders who were “tall, blonde, beautiful, and sexy like the women who worked at the bars in Ibiza,” and those who did not fit this gender stereotype were either not hired, given worse or fewer shifts, and/or prematurely terminated.

Gender-Based Harassment

10. Karamahmutoglu routinely insulted female employees, calling them “bitches” and “cows,” and scrutinized their weight and appearance.
11. Several female bartenders were also harassed by customers, who threatened to stab, rape, and beat them, and also threw glasses at them. Management did not respond to the bartenders’ repeated complaints about violent customers and laughed off at least one of the reports.

Race Harassment

12. The OAG found that Karamahmutoglu regularly used racial slurs.
13. Karamahmutoglu referred to Black security guards as “gangsters” and disapproved of them wearing turbans.
14. One female bartender was subject to racial harassment by Karamahmutoglu, who made comments such as, “I like your fat Black ass.”
15. A male Puerto Rican manager was also subject to racial harassment by Karamahmutoglu, who called him a “terrorist” and “gangster” and told his staff not to hire any more “Puerto Rican trash” because they were “not trustworthy.”

Sexual Orientation Harassment

16. Karamahmutoglu and managers regularly used gay slurs.

Sexual Harassment

17. Multiple female employees were sexually harassed by male managers who commented on their appearances, bodies, and clothes and made unwanted sexual advances.

18. One manager blocked a female employee's entrance to the bar and demanded that she kiss him to get through. He sloppily kissed her on the cheek and then made excuses to go behind the bar to graze his body against hers.

19. Several female employees were subjected to sexual harassment by a barback, such as comments on the color of one employee's underwear, statements that he would "fuck her," and two instances of groping.

20. The OAG found that while several employees complained to Respondents regarding harassment by colleagues and managers, Respondents took insufficient action to rectify the conduct or prevent it from happening again.

21. Multiple employees who reported harassment from customers or sexualized comments and advances made by male colleagues were laughed at and told that they "misunderstood the situation."

Labor Law Violations

Wage-and-Hour Violations

22. The OAG found instances of wage-and-hour violations, including tip theft and failing to pay overtime to certain employees who worked more than 40 hours a week on certain work weeks.

23. The OAG also found that one employee spent approximately 30 hours completing personal work for Karamahmutoglu, and he failed to pay her for that work.
24. Multiple bartenders reported having to stand for 8 hours or more without being allowed to eat or take a bathroom break.
25. Multiple employees described instances of tip theft when customers left tips on credit cards.

Notice and Paystub Violations

26. Respondents failed to consistently provide wage notices and wage statements to employees between February 2015 to the present.
27. Respondents employed more than 120 employees during the relevant time period but only produced wage notices for 48 employees.

Conclusion

28. Based on the foregoing, the OAG has concluded that Respondents engaged in persistent and repeated illegality in violation of NYSHRL, New York Executive Law § 296 *et seq.*, NYCHRL, N.Y.C. Admin. Code §8-107(1)(a), Title VII, 42 U.S.C. § 2000e(2)(a)(1), the FLSA, 29 U.S.C. 203 *et seq.*, N.Y.L.L. §§ 652(1), 198(1-a), (1-b) and (1-d), and 12 N.Y.C.R.R. §§ 142-2.6, 142-2.7, and 142-3.2.
29. For purposes of resolving the OAG's inquiry, Respondents have agreed to enter into this AOD.
30. The OAG finds the relief and agreements contained in this AOD appropriate and in the public interest. THEREFORE, the OAG is willing to accept this AOD pursuant to Executive Law §63(15), in lieu of commencing a statutory proceeding for violations Executive Law §63(12) based on the conduct described above.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the parties:

RELIEF

Entities Bound By Assurance

31. This AOD binds Karamahmutoglu, individually, and Sweet and Vicious Respondents and any future companies in which Karamahmutoglu has a majority ownership stake in New York State.

Compliance with the Law

32. Respondents hereby acknowledge that they understand and will comply with all applicable state and city laws pertaining to employment discrimination and harassment, including but not limited to Title VII, the NYSHRL and the NYCHRL. Respondents acknowledge that any future violation of such laws pertaining to race, sex and/or gender discrimination and harassment in employment is a violation of this AOD, and that the OAG thereafter may commence the civil action or proceeding contemplated in Paragraph 30, in addition to any other appropriate investigation, action, or proceeding.
33. Respondents hereby acknowledge that they understand and will comply with all applicable state and city laws pertaining to labor law violations, including but not limited to the FLSA, NYLL and NYCRR. Respondents acknowledge that any future violation of such laws is a violation of this AOD, and that the OAG thereafter may commence the civil action or proceeding contemplated in Paragraph 30, in addition to any other appropriate investigation, action, or proceeding.

Programmatic Relief

34. The Respondents will begin to implement the relief described in Paragraphs 35 to 66 below immediately upon the full execution of this AOD and continue to implement the relief for three (3) years from the Effective Date (“the Effective Period”).
35. Respondents agree to revise their training of their employees and managers on NYSHRL and NYCHRL anti-discrimination workplace behaviors and compliance. Specifically, Respondents will submit the following written materials to the OAG:
- a. Anti-sexual harassment and discrimination workplace training to be provided to all employees in accordance with state and city standards, which includes the following elements:
 - i. A prohibition on interviewing the complainant and accused together during an internal investigation;
 - ii. A requirement that a complaint of harassment or assault by one employee against another, whether the alleged misconduct occurred in or outside of the workplace, be investigated and addressed to the extent it creates a hostile or intimidating work environment for the victim;
 - iii. An explanation that an employee need not file a police report or pursue criminal charges against another employee in order for a complaint of harassment or assault that creates a hostile work environment to be investigated and addressed; and
 - iv. Any other remedial measures as required by law.
 - b. Anti-sexual harassment rights and responsibilities posters will be displayed for employees in English and Spanish in an open and obvious place.

- c. Anti-sexual harassment rights and responsibilities notices or fact sheets will be distributed to all current and future employees.
- d. Anti-sexual harassment in-person or web-based module to be provided to all current and future employees annually.
- e. A harassment and discrimination complaint process for employees, including designated individuals or management to receive complaints on behalf of Respondents, and instructions to be given to management on how to handle such complaints.
- f. A written policy confirming the Respondents' obligation not to retaliate against employees for protected activities, including raising complaints of discrimination or hostile work environment.

These proposed training materials are subject to OAG approval before use and implementation.

36. Respondents will conduct a training based on the materials set forth in Paragraph 35. All existing employees will be trained on the materials within two (2) months of OAG approval of the materials set forth in Paragraph 35. Thereafter, new employees will be trained within thirty days of commencing employment with Respondents. Training will continue on an annual basis and must be provided to all employees no less than one (1) time per year throughout the effective period. Trainings shall be in person or web-based and must cover each of the topics set forth in Paragraph 35. For employees whose primary language is not English and who so request, Respondents will provide translation services, or separate trainings, in the applicable language, as required by law.
37. Respondents shall create and maintain records regarding all training conducted pursuant to Paragraph 35, including records of attendance.

Monetary Payment

38. Respondents agree to pay **\$500,000.00** (the “Settlement Funds”) in resolution of the OAG’s investigation, which will be paid directly to the OAG and will be used for distribution as restitution to the Respondents’ current or former employees for violations of laws specified in Paragraph 28 of this AOD.

39. The Settlement Funds shall be paid out as follows:

- a. Respondents shall pay **\$100,000.00** within fourteen (14) calendar days of the date of execution of this agreement.
- b. Respondents shall pay **\$100,000.00** on or before December 1, 2022.
- c. Respondents shall pay **\$100,000.00** on or before June 1, 2023.
- d. Respondents shall pay **\$100,000.00** on or before December 1, 2023.
- e. Respondents shall pay **\$100,000.00** on or before June 1, 2024.

40. Payments from Respondents to the OAG must be in the form of a wire transfer, certified check, bank check, money order, or attorney’s check made payable to “The New York State Department of Law,” and forwarded to the New York State Attorney General’s Office to the attention of:

Elizabeth Koo
Assistant Attorney General
Labor Bureau
28 Liberty Street
New York, NY 10005.

The payments and all correspondence related to this AOD must reference “Assurance # 22-023.”

41. The OAG has the sole discretion to determine which of the Respondents’ current or former employees shall be eligible for restitution and damages and to determine the amount of

such restitution and damages. Respondents agree to provide reasonable cooperation necessary to locate current and former employees who may be eligible for restitution. In consideration for receiving any monetary award pursuant to this agreement, each employee shall execute a written release of claims to Respondents. The OAG will provide copies of all such releases to counsel for Respondents on a confidential basis, attorney's eyes only, so that the identity of such claimants will not be disclosed to the Respondents unless the claimant initiates any additional complaint against the Respondents.

42. To secure the payment described by Paragraphs 38 through 39, Respondents will execute and deliver, at the time of execution and delivery of this AOD, the accompanying Affidavit for Judgment by Confession ("Confession of Judgment," attached hereto as Exhibit A), confessing judgment individually and on behalf of Sweet and Vicious, for the remaining Settlement Fund amount of \$500,000.00, less any amounts previously paid to the OAG by Respondents, plus collection fees of twenty two percent (22%) of any outstanding Settlement Fund amount for a collection fee total of up to \$110,00.00, for a total amount confessed of up to \$610,000.00.
43. In the event that Respondents default or fail to timely and properly make payment as set forth in Paragraphs 38 to 39, the OAG shall provide Respondents thirty (30) days' written notice, by first class mail, to cure such default or failure, and upon the failure of Respondents to cure such default or failure, the OAG may file and enter the applicable Confessions of Judgment, at any time, and without further notice, against Respondents less any amounts paid by Respondents pursuant to his AOD prior to the default. For purposes of this Paragraph 43, Respondents' receipt of notice shall be presumed to be five (5) calendar days after mailing.

44. The requirements of this AOD will expire three (3) years after the effective date, except that the OAG may, in its sole discretion, extend the AOD term upon a good faith determination that Respondents have not complied with this AOD. The OAG shall give such Respondent at least 30 days prior written notice, by first class mail, of its intent to extend the AOD (which notice shall contain the details of the basis therefor). Such Respondent shall have the right to cure any alleged default or violation that the OAG believes is sufficient to give rise to such extension. For purposes of this Paragraph 44, Respondents' receipt of notice shall be presumed to be five (5) calendar days after mailing.

Non-Dischargeable Judgement

45. In the event of bankruptcy, Respondents expressly agree not to seek to discharge or extinguish the amounts owed as part of the Settlement Fund.

Monitoring and Oversight

46. Periodic Compliance Reports: Respondents subject to the Programmatic Relief set forth in Paragraphs 34–37 above shall provide the OAG with a report detailing its compliance with the requirements set forth in this AOD, Paragraphs 34–37 (Programmatic Relief), to be submitted to the OAG within forty-five (45) calendar days of the date of execution of this agreement. This report shall be in writing and shall set forth in detail the manner and form of compliance with this AOD. This report shall be signed by Respondents. Thereafter, a report of compliance shall be submitted to the OAG on an annual basis for the following three (3) years. In any case where the circumstances warrant, the OAG may require the Respondents to file an interim report of compliance upon thirty (30) days' notice.

47. Periodic Certification of Compliance: Respondents with a majority ownership stake in any restaurant/bar located in New York State shall provide the OAG with a certification affirming its compliance with the requirements set forth in this AOD Paragraphs 34–37 (Programmatic Relief), to be submitted to the OAG by July 1, 2022. This certification shall be in writing and signed by Respondents. Thereafter, a certification of compliance shall be submitted to the OAG on an annual basis for the following three (3) years. In any case, where the circumstances warrant, the OAG may require Respondents to file an interim certification of compliance upon thirty (30) days' notice.
48. Bi-Annual Reports: Respondents will submit biannual reports to the OAG for the next three (3) years. These reports shall include records of training they provided to their employees, information regarding any changes to their policies described in Paragraph 35, and a description of all discrimination or harassment complaints that were made (whether orally or in writing) and how they were handled by management.
49. Respondents expressly agree and acknowledge that a default in the performance of any obligation under this paragraph during the Effective Period is a violation of the AOD against the defaulting Respondent, and that the OAG thereafter may commence the civil action or proceeding contemplated in Paragraph 30, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the AOD has been violated shall constitute prima facie proof of the statutory violations described in Paragraph 28, pursuant to Executive Law § 63(15).

No Retaliation

50. Respondents agree that they shall comply with NYSHRL, NYCHRL, Title VII, FLSA, NYLL, and NYCRR and shall not in any manner discriminate or retaliate against any of

their employees, including but not limited to employees or former employees who cooperated or are perceived to have cooperated with the OAG's investigation of this matter. Respondents agree not to discharge, refuse to hire, or take any adverse action against any of these employees except for legitimate, non-discriminatory reasons unrelated to the OAG's investigation or to any past, present or future participation in any activities involving the exercise of their legal rights under the NYSHRL, NYCHRL, Title VII, FLSA, NYLL, and NYCRR.

Ongoing Cooperation

51. Respondents agree to provide reasonable cooperation with ongoing requests by the OAG for information related to this investigation and to ensure compliance with this AOD. During the effective period, Respondents agree that the OAG shall have full access to the contact information of its employees that have worked in New York State upon fifteen (15) days written notice, in order to reach them by mail, telephone, or electronic means.

Penalty for Non-Compliance

52. If an OAG inspection shows a material violation of Paragraphs 34–37 of this AOD, the Respondent responsible for the violation agrees to pay \$25,000.00 in liquidated damages for each violation, separate and apart from any other penalty or damages associated with the violation, provided that prior to any assessment of liquidated damages, Respondents shall be notified of the violation in writing, effective two days after mailing via first class mail, after which Respondents shall have ten (10) days to cure the violation. For purposes of this Paragraph 52, Respondents' receipt of notice shall be presumed to be five (5) calendar days after mailing.

MISCELLANEOUS

Representations and Warranties

53. The OAG has agreed to the terms of this AOD based on, among other things, the representations made to OAG by Respondents and the OAG's own factual investigation as set forth in Findings, Paragraphs 1 to 27 above. Respondents represent and warrant that they have not made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondents are later found to be inaccurate or misleading, this AOD is voidable against that Respondent by the OAG in its sole discretion.
54. No representation, inducement, promise, understanding, condition, or warranty not set forth in this AOD has been made to or relied upon by Respondents in agreeing to this AOD.
55. Respondents represent and warrant, through the signatures below, that the terms and conditions of this AOD are duly approved, and execution of this AOD is duly authorized.

General Principles

56. Unless a term limit for compliance is otherwise specified within this AOD, the Respondents' obligations under this AOD are enduring. Nothing in this Agreement shall relieve Respondents of other obligations imposed by any applicable state or federal law or regulation or other applicable law.
57. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that Respondents violate the AOD after its effective date.
58. This AOD may not be amended except by an instrument in writing signed on behalf of the parties to this AOD.

59. In the event that any one or more of the provisions contained in this AOD shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this AOD.
60. Respondents acknowledge that they have entered this AOD freely and voluntarily and upon due deliberation with the advice of counsel.
61. This AOD shall be governed by the laws of the State of New York without regard to any conflict of laws principles.
62. The AOD and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.
63. The Effective Date of this AOD shall be June 28, 2022. The Effective Period shall be for three years after the effective date.
64. All notices, reports, requests, and other communications to any party pursuant to this AOD shall be in writing and shall be directed as follows:

From Respondents to the OAG:

New York State Office of the Attorney General
Elizabeth Koo, Assistant Attorney General, Labor Bureau
28 Liberty Street, New York, NY 10005
or elizabeth.koo@ag.ny.gov

From the OAG to Karamahmutoglu and Sweet and Vicious

Brian Klein
Weinstein + Klein P.C
500 Seventh Avenue, 8th Floor
New York, NY 10018
Or bklein@weinsteinklein.com

Any changes in the person to whom communications should be specifically directed shall be made in writing in advance of the change.

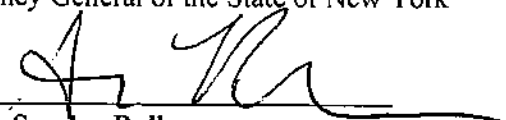
65. This AOD may be electronically signed, and any electronic signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

66. This AOD may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

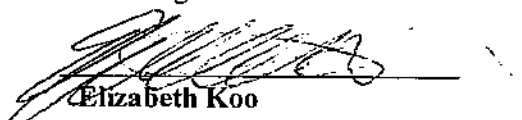
IN WITNESS WHEREOF, this Assurance is executed by the parties hereto on this 28 day of June 2022.

LETITIA JAMES

Attorney General of the State of New York


By: 

Sandra Pullman
Senior Counsel
Civil Rights Bureau



Elizabeth Koo
Assistant Attorney General
Labor Bureau
28 Liberty Street
New York, New York 10005

Dated: June 28, 2022

By: 
Hakan Karamahmutoglu, Jun 28, 2022, 00:00 EDT.

Hakan Karamahmutoglu, Individually
and on behalf of:
5 Spring Street Corp., d/b/a Sweet and
Vicious

c/o

Brian Klein
Weinstein + Klein P.C
500 Seventh Avenue, 8th Floor
New York, NY 10018

Dated: June 28, 2022

EXHIBIT A

PEOPLE OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
LABOR & CIVIL RIGHTS BUREAUS

IN THE MATTER OF THE INVESTIGATION OF
LETITIA JAMES, ATTORNEY GENERAL OF
THE STATE OF NEW YORK,

OF

AFFIDAVIT OF
CONFESSION OF
JUDGMENT

5 SPRING STREET CORP., D/B/A SWEET AND
VICIOUS, and HAKAN KARAMAHMUTOGLU

HAKAN KARAMAHMUTOGLU, being duly sworn, deposes and says the following:

1. I am the majority owner and operator of 5 SPRING STREET CORP., D/B/A SWEET AND VICIOUS (“Sweet & Vicious”) and have authority to sign on behalf of Sweet & Vicious and myself.

2. I reside at the following address: 88 Greenwich Street, Apartment 2307, New York, New York 10006.

3. I hereby confess judgment against Sweet & Vicious and myself pursuant to CPLR § 3218 in favor of the People of the State of New York, in the sum of five hundred thousand dollars (\$500,000.00), less any amounts previously paid, plus collection fees of twenty two percent (22%) of any outstanding Settlement Fund amount for a collection fee, which was signed on June 28, 2022 (AOD No. 22-023). Upon default of the Assurance of Discontinuance and filing of an Attorney Affirmation that such default occurred and not been cured within five business days, I hereby authorize the People of the State of New York to enter judgment against Sweet & Vicious and myself in the sum of five hundred thousand dollars, plus costs, interest, and late fees, as set forth in the Assurance of Discontinuance, and less any and all payments made toward the above settlement amount, and/or credits made prior thereto.

