



DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
45 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0045

LAURA A. FORTMAN
COMMISSIONER

JANET T. MILLS
GOVERNOR

WAGE & HOUR DIVISION

MICHAEL ROLAND
DIRECTOR

July 19, 2021

Noble Partners LLC
Attn; Sean Grady
1148 Forrest Ave
Portland, ME 04103
and
12 Wellstone Dr
Portland, ME 04103

RE: Violations of Title 26, Inspection #454109
Certified mail: 7015 1520 0001 0962 9000 and
7015 1520 0001 0962 9017

Dear Sean Grady,

When our Inspector, [REDACTED], investigated a complaint of unpaid wages against your place of business on May 3, 2021 the following violations of Maine Labor Law were found:

26 MRS §591-A Employee Misclassification - An employer that intentionally or knowingly misclassifies an employee as an independent contractor commits a civil violation for which a fine of not less than \$2,000 and not more than \$10,000 per violation may be adjudged. A determination of misclassification of a worker as an independent contractor may result in the assessment of penalties under section 1051, 1082, 1225 or Title 39-A, section 105-A or 324.

In this case, [REDACTED] was misclassified as an independent contractor between 06/01/2020 and 03/01/2021. This employee does not meet the employment standard's definition of Independent Contractor. She is, in fact, an employee.

26 MRS §621-A Timely and Full Payment of Wages (1) requires that employees be paid in full, on an established day or date, at regular intervals made known to the employee. The intervals may not exceed 16 days and must include all wages earned to within 8 days of the payment date.

In this case, the employer designated the 15th and last day of each month as established pay dates. The employer paid [REDACTED] on 05/30/20, in advance, for the pay period ending 06/15/20. The employer failed to pay [REDACTED] in full on the established pay dates for the remainder of her employment through 03/01/21. She received a partial payment on 07/24/20, 09/04/20 and 10/02/20.

Provide this office proof that these wages have been paid.

The employer was cited for a prior violation of this statute on 03/11/21 and assessed penalties at that time. Those penalties are still outstanding.

26 MRS §622 Records requires that employers keep a true record showing the date and amount paid to each employee. Every employer shall keep a daily record of the time worked by each such employee. Records required to be kept by this section must be accessible to any representative of the department at any reasonable hour.

In this case, the employer failed to provide this department access to payroll records & time records on employee [REDACTED]. She was employed from 06/01/20 through 03/01/21 (39 weeks, 18 pay cycles).

The employer was cited for similar violations of this statute on 03/11/21 and assessed penalties at that time. Those penalties are still outstanding.

26 MRS §626-A PENALTIES Whoever violates any of the provisions of sections 621-A to 623 or section 626, 628, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation. Each employee is counted as a separate violation, each pay cycle.

- 17 violations of §621-A
- 39 violations of §622

26 MRS §665 (1) True and Accurate Records requires that employers shall keep a true and accurate record of the hours worked by each employee and of the wages paid, such records to be preserved by the employer for a period of at least 3 years, and shall furnish to each employee with each payment of wages a statement that clearly shows the date of the pay period, the hours, total earnings and itemized deductions.

In this case, the employer admitted that he did not keep time records on employee [REDACTED] [REDACTED] between 06/01/2020 and 03/01/2021. In addition, the employer failed to provide a detailed pay statement with each payment of wages on 05/30/20, 07/24/20, 09/04/20 and 10/02/20.

26 MRS §671 PENALTIES Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200. In the event of the violation of any of the provisions of this subchapter, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violation thereof.

- 43 violations of §665 (1)

26 MRS §53 Additional Penalties In addition to any penalties provided in chapter 7, subchapters I to IV, the director may assess a forfeiture against any employer, officer, agent or other person who violates any provision of chapter 7, subchapters I to IV for each violation of those subchapters. The forfeiture may not exceed \$1,000 or the amount provided in law or rule as a penalty for the specific violation, whichever is less.

**The total penalty for the above violation(s) is \$17,500.00.
Make checks payable to the “Treasurer, State of Maine”**

The violations identified above will become a final order within fifteen (15) business days from the day it was received unless you request a penalty discussion or file an appeal (see employer options) within the specified time frame listed above.

Employer options (within 15 business days):

If you intend to correct all violations identified and wish to work with the Wage & Hour Division to possibly reduce the penalty amount, you may request a "Penalty Discussion". This discussion will pertain only to the penalty(s) and not the violation(s). All proposed penalties will be stayed until after the penalty discussion.

Or

You may file a formal appeal of any violation or penalty within fifteen (15) days of receipt of this citation. Please be specific as to what violation(s) or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a "hearing". The Director will serve as the hearing officer or may assign the appeal to the Administrative Hearings Division within the Department of Labor. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. All proposed penalties will be stayed until after the formal appeal is heard.

As the employer, you must respond in writing to the Director of the Bureau, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose. If no response is received within that time frame you accept all citations and any penalties assessed. The citation will become a final order and payment will be due at that time, made payable to "**Treasurer, State of Maine**" and mailed to the address at the top of this citation.

We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties for each violation that is not corrected.

If you have questions regarding this citation, you may contact the Bureau of Labor Standards, Wage & Hour Division at (207) 623-7900.

Dates to remember:

Respond in writing, to the Director of the Bureau within fifteen (15) business days of receipt of this citation indicating what option you choose.

Respectfully,



Scott Cotnoir, Director
Wage and Hour Division
Inspection # 454109