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DEPARTMENT OF LABOR
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WAGE & HOUR DIVISION

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DIRECTOR

June 7, 2024

Joyce Lin a.k.a. Zhi Lin
and
C&L Asian Restaurant Inc. DBA – Green Tea
11 Bangor Mall Blvd Unit E
Bangor, ME 04401

RE: Violations of Title 26 MRS. Inspection #486578

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Background

C&L Asian Restaurant Inc. – doing business as Green Tea – is a restaurant in Bangor. Joyce Lin, a.k.a. Zhi Lin, owns the restaurant. C&L Asian Restaurant and Joyce Lin - collectively “the employers” - employ approximately 19 people. Some of them work in the “front of house” as servers, cashiers, etc. and others work in the “back of house” as chefs, dishwashers, or sushi chefs, among others.

On January 12, 2024, the Wage and Hour Division (“the Division”) - part of the Bureau of Labor Standards (“the Bureau”) in the Maine Department of Labor – sent a team of inspectors to conduct an audit of the employers’ compliance with Maine employment laws. On the day of the inspection the Division interviewed multiple employees as well as the employers. The Division also requested, and the employers provided, a number of records of employee working hours and pay.

Based on its review of the records provided, the Division has identified violations of a number of labor laws. This is explained in more detail below. In total, the Division found **261 violations** and imposes a **fine of \$67,633.80**. Workers were **underpaid minimum wage and overtime by a total of \$49,888.05**.

Violations

When the Division conducts an audit, it generally checks for compliance with most of the employment laws that it administers. The bulk of these are set out in Chapter 7 of Title 26 of the Maine Revised Statutes.¹ Various statutes within Title 26 provide the Bureau of Labor Standards with broad authority to inspect workplaces, records, and to question employers and workers.²

Minimum Wage

Subchapter 3 of Chapter 7, of Title 26 of the Maine Revised Statutes (MRS), sets out obligations on minimum wage and paid overtime. Section 664³ contains the key provisions for minimum wage. Section 664(1) (materially) states:

Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section.

¹ Title 26, like the rest of the Maine Revised Statutes, is publicly available: <https://legislature.maine.gov/statutes/26/title26ch0sec0.html>.

² For example, 26 M.R.S. §§ 42, 43, 622, and 665, among others.

³ <https://legislature.maine.gov/statutes/26/title26sec664.html>

- 1. Minimum wage.** ... On January 1, 2021 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. ...

The minimum hourly wages in effect during the relevant time period are set out in Table 1, below:

Table 1: Minimum Wage Rates, 2021-2024

Year	Minimum Wage
2021	\$12.15
2022	\$12.75
2023	\$13.80
2024	\$14.15

Section 664(2) outlines how employers may use employee tips, in part, to offset the requirement to pay the hourly minimum wage:

2. Tip credit. An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section... An employer who elects to use the tip credit must inform the affected employee in advance, as provided for in this subsection, and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined within the established 7-day workweek. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

The tips received by a service employee become the property of the employee and may not be shared with the employer. Tips that are automatically included in the customer's bill or that are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company. The employer may not deduct any amount from employee tips charged to a credit card, including, but not limited to, service fees assessed to the employer in connection with the credit card transaction.

An employer who elects to use the tip credit must inform the affected employee in advance, either orally or in writing, of the following information:

- A. The amount of the direct wage to be paid by the employer to the tipped employee;
- B. The amount of tips to be credited as wages toward the minimum wage;

- C. That the amount of tips to be credited as wages may not exceed the value of the tips actually received by the employee;
- D. That all tips received by the affected employee must be retained by the employee, except for a valid tip pooling arrangement in accordance with subsection 2-A;
- E. That the tip credit may not apply to any employee who has not been informed by the employer of the provisions for a tip credit; and
- F. If the employer uses a tip pooling arrangement, any required tip pool contribution amount from the employee.

In this case, the employer failed to pay minimum wage to the following 18 employees on 81 separate occasions between 12/27/2022 and 12/12/2023. These violations are identified in Table 2, below.

Table 2: Employees Not on Payroll – Minimum Wage Violations

Pay Period (ER Record)	Worker Name (ER Record)	Total Hours Paid (ER Record)	Actual Hours Worked (9.5hrs per day minus time off)	Days Worked	Total Wages Paid	Total Wages Owed	Avg. Hourly Rate	Minimum Wage Violations
12-27-22 to 1-26-23	██████	155.55	256.5	27	\$3,156.00	\$333.83	\$12.30	3
1-13-23 to 2-12-23	██████	193	256.5	27	\$3,200.00	\$339.70	\$12.48	3
1-13-23 to 2-12-23	██████	140	256.5	27	\$3,000.00	\$539.70	\$11.70	3
1-27-23 to 2-26-23	██████	150	256.5	27	\$3,178.00	\$361.70	\$12.39	3
2-13-23 to 3-12-23	██████	184	228	24	\$3,000.00	\$146.40	\$13.16	3
3-28-23 to 4-13-23	██████	96.5	142.5	15	\$1,650.00	\$316.50	\$11.58	2
2-8-23 to 3-7-23 *Document Reads "3/08/2023 to 3/07/2023"	██████	167	228	24	\$2,775.00	\$371.40	\$12.17	3
4-13-23 to 5-12-23	██████	167	247	26	\$2,910.00	\$498.60	\$11.78	3
4-13-23 to 5-12-23	██████	154	247	26	\$3,000.00	\$408.60	\$12.15	3
4-27-23 to 5-12-23	██████	96.5	133	14	\$1,700.00	\$135.40	\$12.78	2
5-13-23 to 6-12-23	██████	48.76 + 86.77	199.5	21	\$2,433.00	\$320.10	\$12.20	3
5-13-23 to 6-12-23	██████	184	247	26	\$3,000.00	\$408.60	\$12.15	3

5-13-23 to 5-28-23	██████	96.5	133	14	\$1,523.00	\$312.40	\$11.45	2
6-13-23 to 7-15-23	██████	161.73	294.5	31	\$3,234.00	\$830.10	\$10.98	4
6-13-23 to 7-12-23	██████	184	266	28	\$3,000.00	\$670.80	\$11.28	4
6-13-23 to 7-12-23	██████	155	266	28	\$2,850.00	\$820.80	\$10.71	4
6-6-23 to 6-12-23	██████	35.89	57	6	\$646.00	\$140.60	\$11.33	1
7-13-23 to 8-12-23	██████	184	256.5	27	\$3,000.00	\$539.70	\$11.70	3
7-13-23 to 8-12-23	██████	155	256.5	27	\$2,800.00	\$739.70	\$10.92	3
7-13-23 to 8-12-23	██████	166.67	256.5	27	\$2,500.00	\$1,039.70	\$9.75	3
7-13-23 to 8-12-23	██████	166.67	256.5	27	\$2,500.00	\$1,039.70	\$9.75	3
7-11-23 to 7-12-23	██████	12.82	19	2	\$192.00	\$70.20	\$10.11	1
7-11-23 to 7-12-23	██████	12.82	19	2	\$192.00	\$70.20	\$10.11	1
8-13-23 to 9-12-23	██████	184	247	26	\$3,000.00	\$408.60	\$12.15	3
8-13-23 to 9-13-23	██████ r	175	256.5	27	\$2,596.00	\$943.70	\$10.12	3
8-13-23 to 9-12-23	██████	155	247	26	\$2,900.00	\$508.60	\$11.74	3
8-13-23 to 8-27-23	██████	83.33	123.5	13	\$1,250.00	\$454.30	\$10.12	1
9-9-23 to 9-12-23	██████	23.81	28.5	3	\$381.00	\$12.30	\$13.37	1
11-30-23 to 12-12- 23	██████	95.89	104.5	11	\$1,438.00	\$4.10	\$13.76	1
11-13-23 to 12-12- 23	██████	184	237.5	25	\$3,000.00	\$277.50	\$12.63	3
11-13-23 to 12-12- 23	██████	190	237.5	25	\$2,600.00	\$677.50	\$10.95	3
Total						\$13,704.43		81

The employers also failed to pay minimum wage to the following 10 employees that appeared on the employers' payroll record on 15 separate occasions between 01/16/2021 and 12/15/2023. These violations are identified in Table 3, below.

Table 3: Employees on Payroll – Minimum Wage violations

Pay Period	Worker Name	Hours Worked	Earnings	Average Rate of Pay	Actual Minimum Wage	Wages Owed	Minimum Wage Violations
1-16-21 to 1-31-21	[REDACTED]	29.18	\$324.00	\$11.10	\$12.15	\$30.54	1
2-1-21 to 2-15-21	[REDACTED]	80.00	\$690.00	\$8.63	\$12.15	\$282.00	1
2-1-21 to 2-15-21	[REDACTED]	15.76	\$190.70	\$12.10	\$12.15	\$0.78	1
2-1-21 to 2-15-21	[REDACTED]	80.00	\$640.00	\$8.00	\$12.15	\$332.00	1
2-16-21 to 2-28-21	[REDACTED]	80.00	\$601.84	\$7.52	\$12.15	\$370.16	1
2-16-21 to 2-28-21	[REDACTED]	80.00	\$618.00	\$7.73	\$12.15	\$354.00	1
3-16-21 to 3-31-21	[REDACTED]	15.00	\$181.50	\$12.10	\$12.15	\$0.75	1
4-16-21 to 4-30-21	[REDACTED]	80.00	\$866.00	\$10.83	\$12.15	\$106.00	1
6-1-21 to 6-15-21	[REDACTED]	80.00	\$918.17	\$11.48	\$12.15	\$53.83	1
8-1-21 to 8-15-21	[REDACTED]	80.00	\$848.00	\$10.60	\$12.15	\$124.00	1
8-16-21 to 8-31-21	[REDACTED]	80.00	\$791.61	\$9.90	\$12.15	\$180.39	1
1-1-22 to 1-15-22	[REDACTED]	78.33	\$976.78	\$12.47	\$12.75	\$21.93	1
1-1-22 to 1-15-22	[REDACTED]	31.37	\$391.19	\$12.47	\$12.75	\$8.78	1
1-1-22 to 1-15-22	[REDACTED]	34.50	\$430.22	\$12.47	\$12.75	\$9.65	1
12-1-23 to 12-15-23	[REDACTED]	16.50	\$213.85	\$12.96	\$13.80	\$13.85	1
Total						\$1,888.66	15

In total, the employers violated minimum wage 96 times and owe their workers \$15,593.09 in unpaid minimum wages.

Overtime Rate

Section 664(3)⁴ sets out employer obligations on paid overtime:

3. Overtime rate. An employer may not require an employee to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week. The regular hourly rate includes all earnings, bonuses, commissions and other compensation that is paid or due based on actual work performed and does not include any sums excluded from

⁴ <https://legislature.maine.gov/statutes/26/title26sec664.html>

the definition of "regular rate" under the Fair Labor Standards Act, 29 United States Code, Section 207(e).

In this case, the employers failed to pay overtime wages to 17 employees who were not on payroll, on 60 separate occasions between 12/27/2022 and 12/12/2023. These violations are identified in Table 4, below.

Similarly, the employers failed to pay overtime wages to three employees that appeared on the employers' payroll record on 12 separate occasions between 01/16/2021 and 07/15/2023. These violations are identified in Table 5, below.

Table 4: Employees Not on Payroll - Overtime Violations

Pay Period	Worker Name	Hours worked per pay period	Overtime Hours Worked per week	Average Hourly Rate	Halftime Rate	Number of weeks in pay period	Total Overtime Wages Paid	Total Overtime Wages Owed
12-27-22 to 1-26-23	██████	256.5	24.13	\$12.30	\$6.90	4	\$0.00	\$665.85
1-16-23 to 1-31-23	██████	123.5	21.75	\$14.20	\$7.10	2	\$0.00	\$308.90
1-13-23 to 2-12-23	██████	256.5	24.13	\$12.48	\$6.90	4	\$0.00	\$665.85
1-13-23 to 2-12-23	██████	256.5	24.13	\$11.70	\$6.90	4	\$0.00	\$665.85
1-13-23 to 2-12-23	██████	251.25	22.81	\$14.44	\$7.22	4	\$0.00	\$659.00
1-13-23 to 2-12-23	██████	237.5	19.38	\$17.10	\$8.55	3	\$0.00	\$497.06
1-27-23 to 2-26-23	██████	256.5	24.13	\$12.39	\$6.90	4	\$0.00	\$665.85
2-1-23 to 2-15-23	██████	104.5	12.25	\$18.18	\$9.09	2	\$0.00	\$222.73
2-16-23 to 2-28-23	██████	104.5	12.25	\$18.18	\$9.09	2	\$0.00	\$222.73
2-27-23 to 3-26-23	██████	228	17.00	\$13.96	\$6.90	4	\$0.00	\$469.20
2-13-23 to 2-26-23	██████	114	17.00	\$14.47	\$7.24	2	\$0.00	\$246.05
2-13-23 to 3-12-23	██████	228	17.00	\$19.30	\$9.65	4	\$0.00	\$656.14
2-13-23 to 3-12-23	██████	228	17.00	\$16.23	\$8.11	4	\$0.00	\$551.75
2-13-23 to 3-12-23	██████	228	17.00	\$13.16	\$6.90	4	\$0.00	\$469.20
2-27-23 to 3-12-23	██████	114	17.00	\$14.47	\$7.24	2	\$0.00	\$246.05
3-28-23 to 4-13-23	██████	142.5	31.25	\$11.58	\$6.90	2	\$0.00	\$431.25
2-8-23 to 3-7-23	██████	228	17.00	\$12.17	\$6.90	4	\$0.00	\$469.20

*Document Reads "3/08/2023 to 3/07/2023"								
3-1-23 to 3-15-23	████	123.5	21.75	\$15.38	\$7.69	2	\$0.00	\$334.62
3-16-23 to 3-21-23	████	43.25	3.25	\$15.21	\$7.61	1	\$0.00	\$24.72
3-13-23 to 3-27-23	████	114	17.00	\$14.47	\$7.24	2	\$0.00	\$246.05
4-13-23 to 5-12-23	████	247	21.75	\$11.78	\$6.90	4	\$0.00	\$600.30
4-13-23 to 5-12-23	████	247	21.75	\$12.15	\$6.90	4	\$0.00	\$600.30
4-13-23 to 5-12-23	████	247	21.75	\$14.98	\$7.49	4	\$0.00	\$651.62
4-27-23 to 5-12-23	████	133	26.50	\$12.78	\$6.90	2	\$0.00	\$365.70
4-13-23 to 5-12-23	████	247	21.75	\$15.79	\$7.89	4	\$0.00	\$686.84
4-13-23 to 5-12-23	████	247	21.75	\$17.81	\$8.91	4	\$0.00	\$774.90
5-13-23 to 5-20-23	████	66.5	26.50	\$14.00	\$7.00	1	\$0.00	\$185.50
5-13-23 to 6-12-23	████	247	21.75	\$15.79	\$7.89	4	\$0.00	\$686.84
5-13-23 to 6-12-23	████	199.5	26.50	\$12.20	\$6.90	3	\$0.00	\$548.55
5-13-23 to 6-12-23	████	247	21.75	\$12.15	\$6.90	4	\$0.00	\$600.30
5-13-23 to 6-12-23	████	247	21.75	\$15.79	\$7.89	4	\$0.00	\$686.84
5-13-23 to 5-28-23	████	133	26.50	\$11.45	\$6.90	2	\$0.00	\$365.70
6-13-23 to 7-12-23	████	171	17.00	\$21.06	\$10.53	3	\$0.00	\$536.99
6-21-23 to 7-12-23	████	180.5	20.17	\$16.19	\$8.10	3	\$0.00	\$489.87
6-13-23 to 7-12-23	████	266	26.50	\$14.85	\$7.42	4	\$0.00	\$787.03
6-13-23 to 7-15-23	████	294.5	33.63	\$10.98	\$6.90	4	\$0.00	\$928.05
6-13-23 to 7-12-23	████	266	26.50	\$11.28	\$6.90	4	\$0.00	\$731.40
6-13-23 to 7-12-23	████	266	26.50	\$10.71	\$6.90	4	\$0.00	\$731.40
6-6-23 to 6-12-23	████r	57	17.00	\$11.33	\$6.90	1	\$0.00	\$117.30
7-13-23 to 8-12-23	████	256.5	24.13	\$11.70	\$6.90	4	\$0.00	\$665.85
7-13-23 to 8-12-23	████	256.5	24.13	\$15.98	\$7.99	4	\$0.00	\$771.25
7-13-23 to 8-12-23	████	256.5	24.13	\$10.92	\$6.90	4	\$0.00	\$665.85

7-13-23 to 8-12-23	██████	256.5	24.13	\$9.75	\$6.90	4	\$0.00	\$665.85
7-13-23 to 8-12-23	██████	256.5	24.13	\$9.75	\$6.90	4	\$0.00	\$665.85
7-13-23 to 8-12-23	██████	252	23.00	\$15.57	\$7.78	4	\$0.00	\$716.10
7-13-23 to 8-12-23	██████	256.5	24.13	\$15.59	\$7.80	4	\$0.00	\$752.44
8-13-23 to 9-12-23	██████	247	21.75	\$16.19	\$8.10	4	\$0.00	\$704.45
8-13-23 to 9-12-23	██████	247	21.75	\$12.15	\$6.90	4	\$0.00	\$600.30
8-13-23 to 9-13-23	██████	256.5	24.13	\$10.12	\$6.90	4	\$0.00	\$665.85
8-13-23 to 9-12-23	██████	247	21.75	\$16.60	\$8.30	4	\$0.00	\$722.06
8-13-23 to 9-12-23	██████	247	21.75	\$11.74	\$6.90	4	\$0.00	\$600.30
8-13-23 to 8-27-23	██████	123.5	21.75	\$10.12	\$6.90	2	\$0.00	\$300.15
8-13-23 to 9-5-23	██████o	192.5	24.17	\$16.17	\$8.08	3	\$0.00	\$586.03
8-29-23 to 9-12-23	██████	123.5	21.75	\$16.19	\$8.10	2	\$0.00	\$352.23
11-30-23 to 12-12- 23	██████	104.5	12.25	\$13.76	\$6.90	2	\$0.00	\$169.05
11-13-23 to 12-12- 23	██████	237.5	19.38	\$12.63	\$6.90	4	\$0.00	\$534.75
11-13-23 to 12-12- 23	██████	213.75	31.25	\$17.34	\$8.67	3	\$0.00	\$812.72
11-13-23 to 12-12- 23	██████	213.75	19.38	\$10.95	\$6.90	4	\$0.00	\$534.75
11-13-23 to 12-12- 23	██████	213.75	19.38	\$17.68	\$8.84	4	\$0.00	\$685.26
11-13-23 to 12-12- 23	██████	213.75	19.38	\$17.26	\$8.63	4	\$0.00	\$668.95
Total								\$32,633.53

Table 5: Employees on Payroll - Overtime Violations

Pay Date	Worker Name	Overtime Hours Worked	Overtime Hours Paid	Overtime Rate paid/hr	Correct Overtime Rate	Total Overtime Wages Paid	Total Overtime Wages Owed
11/30/2021	[REDACTED]	8.5	4.39	\$9.725	\$12.18	\$15.91	\$87.62
12/15/2021	[REDACTED]	5.5	2.89	\$9.725	\$12.18	\$10.48	\$56.51
2/15/2022	[REDACTED]	23.5	1.44	\$10.010	\$12.76	\$5.22	\$294.64
2/15/2022	[REDACTED]	8.25	0.03	\$10.010	\$12.76	\$10.01	\$95.26
3/31/2022	[REDACTED]	10.25	25.26	\$10.010	\$12.76	\$91.57	\$39.22
4/30/2022	[REDACTED]	25.5	19.73	\$10.010	\$12.76	\$71.52	\$253.86
5/15/2022	[REDACTED]	10.75	13.4	\$10.010	\$12.76	\$48.58	\$88.59
5/15/2022	[REDACTED]	17	8.45	\$11.070	\$13.76	\$31.18	\$202.74
5/31/2022	[REDACTED]	10	9.87	\$10.010	\$12.76	\$35.78	\$91.82
6/15/2022	[REDACTED]	16.5	5.33	\$10.010	\$12.76	\$19.32	\$191.22
6/30/2022	[REDACTED]	17.25	8.37	\$10.010	\$12.76	\$30.34	\$189.77
7/15/2023	[REDACTED]	6	3.48	\$10.530	\$13.80	\$12.62	\$70.18
Total							\$1,661.43

In total, the employers violated paid overtime requirements 72 times and owe their workers \$34,294.96 in unpaid overtime wages.

Sexual Harassment Policies

Section 807, entitled “Requirements”,⁵ (materially) states:

2. Employee notification. Employers shall provide annually all employees with individual written notice that includes at a minimum the following information: the illegality of sexual harassment; the definition of sexual harassment under state law; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided pursuant to Title 5, section 4553, subsection 10, paragraph D. This notice must be initially provided within 90 days after the effective date of this subchapter. The notice must be delivered in a manner to ensure notice to all employees without exception, such as including the notice with an employee's pay.

The employers failed to provide written notice, in conformance with Section 807(2), at all. The Division counts one violation per employee, per year. In total, there were 93 violations from 2021 through 2023.

Summary of Violations

Table 6, below, sets out the total number of violations for which the Division is citing in this letter.

Table 6: Total Violations

Statute	Number of Violations
26 M.R.S. § 664(1) and (2) (Minimum Wage)	96
26 M.R.S. § 664(3) (Overtime)	72
26 M.R.S. § 807(2) (Sexual Harassment written Notification)	93
TOTAL	261

Penalties

When assessing fines, the Division generally relies on Section 53 of Title 26, which (materially) states:

...[T]he 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

⁵ <https://legislature.maine.gov/statutes/26/title26sec807.html>

provided in law or rule as a penalty for the specific violation, whichever is less. ... The director shall adopt rules to govern the administration of the civil money forfeiture provisions. The rules must include a right of appeal by the employer and a range of monetary assessments with consideration given to the size of the employer's business, the good faith of the employer, the gravity of the violation and the history of previous violations. ...

The Rules referred to above are entitled: *Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations*.⁶ Pursuant to these rules, fines start at the minimum penalty or the lowest amount in the penalty range for a particular violation, and then must be increased for the severity of the violation, when the employer has a history of violations, and if the violations are “willful”. The fines decrease, on the other hand, when the employer demonstrates “good faith” or has 100 or fewer employees.

Employer size is the only relevant criterion to the imposition of fines in this case. The employers in this case have between 1 and 20 employees. This means that, pursuant to Section III(B)(2), the penalty amount in all violations will be reduced by 33.3%. Therefore, to calculate the penalty amount the Division imposes for the violations in this case, the Division starts with the minimum penalty provided by the statute in question and then reduces the amount by 33.3%.

Minimum Wage and Overtime

The penalty range for minimum wage and overtime violations is set out at Section 671⁷ and (materially) states: “Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200.” We therefore start with the minimum figure of \$50 per violation. We then multiply this by the 168 violations in this category, resulting in a penalty amount of \$8,400.00. After reducing by 33.3% to account for employer size, **the result is a total penalty amount of \$5,602.80 for the violations in this category.**

Sexual Harassment Notification

The penalty provisions for the failure to issue sexual harassment notifications are set out at Section 807(6)(B),⁸ which (materially) states:

⁶At the time of writing, the Bureau has proposed amendments to these rules. As the rules are “major substantive”, pursuant to Title 5, Chapter 375, subchapter II-A, they must be approved by the Legislature. The Legislature is currently reviewing these rules. The rules which are currently in force, and upon which this citation relies, can be found here: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fsos%2Fcec%2Frules%2F12%2F170%2F170c009.docx&wdOrigin=BROWSELINK>.

⁷ 26 M.R.S § 671.

⁸ <https://legislature.maine.gov/statutes/26/title26sec807.html>.

6. Penalties for violations. An employer who violates this section may be assessed a fine by the department in accordance with this subsection.

...

B. An employer who violates the notification, education or training requirements set forth in subsection 2 or 3 may be assessed:

(1) For the first violation, a fine of \$1,000;

...

As the provision does not provide a penalty range, we start with a penalty of \$1,000 per violation. We multiply this by the 93 violations of this statute, resulting in a fine of \$93,000.00. We then reduce this amount by 33.3%, **resulting in a total penalty of \$62,031.00.**

Appeals and Settlements

The total penalty for the above violation(s) is \$67,633.80. Please make checks payable to “Treasurer, State of Maine” and mail to the address at the top of this letter.

Pursuant to Section 53 of Title 26, you have the right to appeal this citation. The Bureau’s appeals process is set out in Section IV of the Chapter 9 Rules.⁹

If you choose to file an appeal of any violation or penalty, you must do so within fifteen (15) business days of receipt of this notice. The appeal must be submitted in writing to the Deputy Director of the Bureau, at the address listed above. If you file an appeal, be specific as to which violation(s) or penalties you wish to appeal. If a request for a formal appeal is received timely, a hearing will be scheduled. The Deputy Director will assign the appeal to a qualified hearing officer. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. The hearing may be held telephonically or by remote video, at the discretion of the hearing officer. All proposed penalties will be stayed until after the formal appeal is heard.

If no response is received within the designated timeframe, you accept all citations and any penalties assessed. The notice will become a final order and payment will be due at that time.

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.

You may approach the Bureau to negotiate a settlement to waive the violations or penalties at any time during this process. However, settlement negotiations will not affect the deadline to appeal.

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

⁹

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fsos%2Fcec%2Frules%2F12%2F170%2F170c009.docx&wdOrigin=BROWSELINK>.

Respectfully,

A handwritten signature in blue ink, appearing to read "J. Moyer-Lee", with a long, sweeping underline.

Dr. Jason Moyer-Lee, Director
Bureau of Labor Standards
Inspection #486578