



T-1-18-220

State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
P.O. BOX 389, TRENTON, NEW JERSEY 08625-0389

Rich Merritt, Owner and Individually, and
Merritt Painting
79 Washington Ave.
Leonardo NJ 07737

March 23, 2022

Re: PC-35-0122-TUM
2 Painting Projects
2 Painting Projects
Middletown Board of Education

Dear Rich Merritt:

The Wage and Hour Division and Contract Compliance conducted an inspection of your firm. It has been determined you are in violation of Title 34 which provides that any person who violates any provision of the New Jersey Wage and Hour Law or regulations may be prosecuted, fined, and/or penalized. In addition, the Commissioner of Labor and Workforce Development has the authority to assess administrative fees based on the amount of back wages, liquidated damages, and misclassification penalty assessed. As a result of our inspection, you may be liable for a Penalty or both a Penalty and Administrative Fee.

Under the provisions of N.J.S.A. 34:11-4.1, an employer is any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person in this State. For the purposes of this act, the officers of a corporation and any agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation.

Total Monies Due Employees: These monies are due directly to Employees.

Back Wages: If back wages are assessed, the gross back wages due amount is listed on the attached Monies Due Employees Form. Gross back wages are subject to tax deductions.

Liquidated Damages: If liquidated damages are assessed, the amount is listed on the attached Monies Due Employees Form. Liquidated Damages cannot exceed 200% of gross back wages due and are not subject to tax deductions.

Misclassification Penalty: Pursuant to N.J.S.A. 34:1A-1.18, a misclassification penalty is assessed for each worker not properly classified as an employee. If a misclassification penalty is assessed, the amount is listed on the attached Monies Due Employees Form. The penalty is based up to 5% of the misclassified worker's gross back wages for the past 12 months and is not subject to tax deductions.

Administrative Fee: If back wages, liquidated damages or misclassification penalty are assessed, an administrative fee is due. The fee is equal to a percentage of total monies due employees and is based on your history of violations: 10% for the first violation, 18% for the second violation, and 25% for the third and subsequent violations.

Penalty: The attached Assessment Form provides a brief explanation of each violation, the section of law or regulation violated, and the penalty amount which has been assessed.

Respond to this Notice within 15 Days of the above Date:

- 1. If you are not contesting this assessment, complete the bottom section of the Assessment Form and submit payment within 15 days of the above date.
2. If you are contesting any portion of this assessment, you must submit a written request for a telephone conference. Complete the bottom section of the Assessment Form and return within 15 days of the above date. A Division Representative will contact you by telephone to hold an informal conference to discuss your case. If your case cannot be resolved over the telephone, we will schedule you for a hearing in Trenton and send you written notification regarding your hearing.

If you have questions contact this office Monday to Friday, 8:30 am to 4:30 pm.

Sincerely,

[Redacted signature]

Marc Goldberg, Section Chief
Public Contracts Section

[Redacted contact information]

04-06-22 10:44AM:MPG

Assessment Form

Case No. PC-35-0122-TUM

Merritt Painting

3/23/2022

Violation of New Jersey Statutes Annotated (N.J.S.A.) and/or New Jersey Administrative Code (N.J.A.C.):

| Violation | Citation No. | Penalty |
|---------------------------------|----------------------------|------------------------|
| Certified Payroll / Public Body | 34:11-56.33 / 12:60-5.1(c) | \$500.00 (Violation) |
| Failure to Register | 34:11-56.51 | \$1,000.00 (Violation) |

Assessments:

| | |
|---|------------|
| Total Monies due Employees | \$0.00 |
| Back Wages | \$0.00 |
| Liquidated Damages | \$0.00 |
| Misclassification Penalty | \$0.00 |
| Administrative Fee (0% of Total Monies) | \$0.00 |
| Penalty | \$1,500.00 |

Instructions

1. **Payment of Total Monies due Employees:** Pay employees directly. For gross back wages due, provide employees with a statement of deductions. Any withholdings should be remitted to the proper taxing agencies. Liquidated Damages and Misclassification Penalty are not subject to tax deductions. Submit copies of all payments to employee (cancelled checks) and corresponding statement of deductions to this office as proof of payment.

If a former employee's check is returned to you as undeliverable, add "...or Commissioner of LWD" after the employee's name on the "Pay to the Order of" line. Forward the returned check and statement of deductions to the Wage and Hour Division and Contract Compliance to be held in trust for that employee. Include case number on check.

2. **Payment of Administrative Fee and/or Penalty:** Make check payable to the Commissioner of Labor and Workforce Development. Include case number on check.

3. **Check the appropriate box below:** Mail completed forms, cancelled employee checks, corresponding statement of deductions, and payment to:

Wage and Hour Division and Contract Compliance
PO Box 389
Trenton, NJ 08625-0389
Fax (609) 695-1174

I am submitting payment for the Administrative Fee and/or Penalty. If any monies are due employees, I have paid employees directly as per the above instructions. I am submitting copies of the cancelled employee checks and corresponding statement of deductions as proof of payment. Any withholdings have been remitted to the proper taxing agencies.

I am contesting the above Assessments and I am requesting a telephone conference to discuss my case because (explain briefly): *I was not aware of the above violations. I'm working with Middletown Board of Ed to resolve this issue. Waiting to see if they can supply the documents you are requesting*

Print Name: Lisa Merritt

Phone: 

Title: Office Manager / Secretary

Fax: _____

Signature:  Date: 4/16/22

Email: 