



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
www.mass.gov/ago

September 11, 2017

VIA E-MAIL ONLY

Cole Rosengren
Boston Institute for Nonprofit Journalism
cdrosengren@gmail.com

Re: Your Public Records Request

Dear Mr. Rosengren:

I write in response to your public records request received on August 25, 2017¹ and made pursuant to the Massachusetts public records law, G.L. c. 66, § 10. By using the e-form available on our website, you requested copies of records held by the Office of the Attorney General (AGO), specifically as follows:

- The original overtime complaint filed against KTI Recycling, Inc. in 2003
- Proof or notice of this case being resolved in 2005 with \$79,678.58 in required restitution and a \$5,500 penalty
- The citation issued to KTI Recycling, Inc. in 2005 as part of this resolution

We enclose eleven (11) pages of records that may be responsive to your request and are subject to disclosure under the public records law, G.L. c. 66, § 10 and G.L. c. 4, § 7, cl. 26. Please note that some of the records have been redacted in accordance with G.L. c. 4, § 7, cl. 26(c), insofar as they contain information relating to a specifically named individual, including information identifying certain complainants, the disclosure of which may constitute an unwarranted invasion of personal privacy.²

The public records law permits a custodian of public records to charge requesters for certain costs associated with responding to public records requests. *See* G.L. c. 66, § 10(d); and 950 C.M.R. § 32.07. Further, G.L. c. 66, § 10(d)(ii)(B) provides that no fees shall be charged for the first four (4.0) hours of labor required to respond to a request. As less than 4.0 hours of labor were required to fulfill the request, there are no fees to be paid in this instance.

¹ *See* 950 C.M.R. 32.03(3).

² *See also* 940 C.M.R. 11.04(1)



Cole Rosengren
September 11, 2017
page 2

You have the right to appeal this response to the Supervisor of Records pursuant to G.L. c. 66, § 10A(a), and to seek judicial review of an unfavorable decision by commencing a civil action in the superior court under G.L. c. 66, § 10A(c).

Very truly yours,



Lorraine A.G. Tarrow
Assistant Attorney General & Records Access Officer
General Counsel's Office

enclosures

cc: Emalie Gainey, Senior Deputy Press Secretary

Daniel Field
02/07/03 01:57 PM

To: Katharine Klubock/AGO/STATE/MASS/US@MASS_AG
cc: Randy Berg/AGO/STATE/MASS/US@MASS_AG
Subject: Wage Investigation

=Y!- let's get an investigator involved ASAP.

----- Forwarded by Daniel Field/AGO/STATE/MASS/US on 02/07/03 02:01 PM -----



"Monica Halas"
<MHalas@gbls.org>
02/07/03 01:40 PM

To: <Daniel.Field@ago.state.ma.us>
cc:
Subject: Wage Investigation

Dan: I am writing to let you know that based on your statement of confidentiality, the KTI workers would very much like you to pursue their claims for overtime pay at time and a half. I have attached an affidavit (in word and corel) that sets out these claims. Thanks so much.

On a separate note, I have distributed your case squib on vacation pay. Best regards, m.

Monica Halas
Employment Unit
Greater Boston Legal Services
197 Friend Street
Boston, MA 02114
617/603-1666



- 1-27-03 [REDACTED] TI Affidavit.wpd



- 1-27-03 [REDACTED] -KTI Affidavit.doc

AFFIDAVIT OF [REDACTED]

I, [REDACTED], do hereby depose and allege as follows:

I work with the Chelsea Solidarity Coalition. I am fluent in Spanish. On January 25, 2003, I met with workers from KTI and Attorney Monica Halas at her office at Greater Boston Legal Services. I was at the meeting in the role of interpreter for the workers. The following statements are a true and accurate summary of the information provided to Attorney Halas in response to questions that were posed to the workers.

1. We are non-supervisory workers at KTI and we work in several different jobs in the newspaper recycling plant and in the glass recycling plant.
2. We are afraid to have our identities known for fear that KTI will retaliate against us and fire us.
3. When we started at KTI, we were paid the minimum wage. We believe that all non-supervisory workers start at the minimum wages. Raises are given annually and for the most part range between 2 cents an hour and 25 cents an hour. The raises are given in a very arbitrary manner. The supervisors circulate and then tell HR what raise to give us. We never have the opportunity to sit down with HR one on one to discuss our raises. Occasionally, if the supervisor favors a worker the raise is higher, including if a supervisor finds a female worker attractive.
4. We earn far less than \$10.54 an hour. The machine operators generally are paid better --- at around \$8.00 an hour and the sorters get minimum wage or in the low \$7.00 range. The supervisor helpers also get around \$8.00 an hour. It is an extremely good week when someone can get overtime and bring home a pay check of \$300. We do not know of any non-supervisory workers who earn \$10.54 an hour, even workers who have been with KTI for many years. We think that there are about 120 regular workers. We do not know how many temporary workers work for the company and the number varies.
5. Although there are workers who have worked at KTI for five to eight years, we believe that the majority of workers stay from about one year to one and a half years. In any event, most workers are always hoping to get another job because of the poor pay and the very bad working conditions.
6. There are two regular shifts: from 6:15 to 2:45 and from 3:00 to 11:00. When the work is very busy, there is an additional shift added from 11:00 to 6:00, however, these are temporary workers.
7. We are always asking our supervisors for more money and more work. The most common response is that if you aren't satisfied, the door is wide open to leave.
8. Some workers are paid overtime, especially those that work in the newspaper plant.

However, often workers in the glass recycling plant are not paid overtime. They are told that if they work over 40 hours, they must be paid through the temporary agency. For example, we know that one of the workers who worked a double shift was paid by KTI for the first shift, and was paid straight time through the temporary agency for the second shift. Workers who worked the Martin Luther King holiday were not paid overtime when they worked on Saturday, instead they were paid through the temporary agency.

9. If you get hurt on the job you have to tell the supervisor right away. However, often the supervisor doesn't know what to do. We do not know what "workers compensation" means and we didn't know that you can get paid if you have been hurt on the job. We have been told that if we want to get paid if we are out because we have an injury or because we are sick for more than two weeks, we have to buy an extra insurance. One older worker who hurt himself on the job was fired. The company would not pay his doctor bills either. We think that he has a lawyer helping him now.

10. The company offers health insurance but the workers have to pay for it. There are different policies - a single policy is \$9.00 a week and a family policy is \$18.00 a week. There are also policies with different coverage for \$21.00 a week and \$24.00 a week. However, many workers cannot afford to have the money taken out of their weekly checks and when some of the workers have discovered how poor the coverage is, they stop their health insurance. Almost all communications about policies are verbal and are not explained very well. For example, we didn't know that the dental plan which costs extra only covers up to half the cost.

11. The employer offers 7 days sick leave, however, under a recent change in policy, the company will only pay if the worker brings a doctor's note. Often workers do not go to the doctor when they are sick and then they do not receive any pay.

12. There is one fifteen minute break and a half hour break for lunch. The cafeteria is not close to the workstations so you lose time going there and coming back to your work station. Because everyone goes to lunch at the same time there are long lines for the use of the microwaves. We want to be able to heat our food because it is so cold at the workstation but that is often not possible because there isn't enough time.

13. The working conditions are very bad. The worst job is in the glass building because it is so cold. The ramp bringing in the glass to be sorted is through an opening in the building which is a large warehouse. There is a pipe that is supposed to provide heat but it doesn't work properly. There are two lines with three people working on each line. The job is to separate out the bottles and the other glass. We have to break the glass and then put into a hamper. When the hamper is full it is taken to the end of the line. The glass is then put into a grinding machine.

14. Even though it is so cold, the company doesn't provide any extra clothing. Recently because a woman fainted on the line, the company said that because she was wearing too many clothes, they restrict what you can wear to keep warm. Workers are so cold that their fingers and hands ache from the cold.

15. The only equipment that is provided are glasses and gloves. The gloves come in two sizes: small and large. Many times the right size is not available. The supervisors used to provide the gloves and bring a box of them to the workstation. Now the gloves are kept downstairs in the office. You have to ask for a pair of gloves. If there is no one in the office, you have to go to work without the gloves. The only time it is different is when the inspectors from OSHA comes. Then the company makes sure that everything looks good and that everyone is wearing the glasses and wearing gloves. The glasses are not very good but the company doesn't do anything about getting better equipment.

16. The glass grinding machine grinds the glass into very small particles. The company doesn't provide any protective clothing to keep the glass dust from getting into the workers skin.

17. The bathroom policies are very bad too. You cannot go to the bathroom if someone else from the line is out. If you leave because you have to go you get written up. When the men's room malfunctions, the door is locked and you have to see the supervisor for the key or use the women's room.

18. The supervisor openly dislikes Hispanic workers. He works in the glass building. He does not authorize any overtime pay for work done beyond the first shift and makes the workers go to the temporary agency and get regular pay. He is very abusive to the workers. Last April he grabbed a flyer from a worker and tore it up and threw it away.

19. We believe that the flyer was trying to give us notice about the hearing in April to decide about KTI and how much money they had to pay us. We learned about this later in a community newspaper.

20. The company has never told us about any hearings in City Hall about this - not in April and not now.

21. It is very hard to live on the pay that we get at KTI. It is especially difficult for those of us who have children. The cost of everything is going up - rent, heat, clothing, food and it is very difficult to be able to afford what we and our families need. Many of the workers who are single can only afford a room and even those of us with families have to live in very crowded apartments. At least two checks go to rent and then it is difficult to pay for everything else. We all work another job - either a second part time job or a second full time job. It would make a big difference if we could earn \$10.54 an hour. We would not be so worried all the time about how we can afford to stay in our apartments and to pay the bills. It would help us afford clothes and other necessary things for our children.

22. Because the company does not like to pay us overtime, we do not get better pay when it is busier. Some of us get a few hours of overtime pay but the rest of us are paid through the temporary agency. When it is especially busy, temporary workers are hired to do the graveyard shift.

23. The company does not treat us with respect. For example, when there is a month with no

health and safety problems, they give us a worker appreciation lunch. They bring us pizza. When we say that we don't like the pizza and would rather have Kentucky Fried Chicken, they say that is too bad, they don't have time to get us KFC — if you don't like the pizza then don't eat it. But the big bosses get nice lunches brought in all the time.

24. The company will not pay us more unless they are told that they must do it. The company has a lot of business. They are doing very well because we work hard. But they do not treat us fairly and they do not pay us fair wages for our hard work. We hope the Mayor will help us and not just listen to KTI but listen to us too.

Signed under the pains and penalties of perjury, this ___ day of January, 2003.

██████████



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY
ATTORNEY GENERAL

(617) 727-2200
www.ago.state.ma.us

SETTLEMENT AGREEMENT

Between

The Commonwealth of Massachusetts
by
The Office of the Attorney General

and

KTI Recycling of New England, Inc.,

Dated as of February 15, 2005



SETTLEMENT AGREEMENT

I. PARTIES

- A. The Commonwealth of Massachusetts, through the Office of the Attorney General (the "Attorney General"), is charged with enforcement of various Wage and Hour Laws, including but not limited to, the Commonwealth's Wage Payment Statute, G.L. c. 149, § 148, the Overtime Statute c. 151, § 1B, and other related statutes and regulations.
- B. KTI Recycling of New England, Inc., (KTI), is engaged in the business of operating a recycling facility with offices located at 14 Bunker Hill Ave, Charlestown, Massachusetts.

II. THE ATTORNEY GENERAL'S INVESTIGATION AND FINDINGS

- A. Pursuant to G.L. c. 151, § 1B, KTI is obligated to pay non-exempt employees time and one half their regular rate of pay (hereafter "overtime pay") when these employees work in excess of forty hours in a work week.
- B. During the period June 1, 2002 through December 31, 2004, KTI failed to pay overtime pay in violation c. 151, § 1B to certain non-exempt employees identified in Schedule A of this Settlement Agreement.

III. TERMS OF AGREEMENT

WHEREAS,

- A. This Agreement is entered into between KTI and the Attorney General, and becomes binding on this day.
- B. The Attorney General wishes to ensure KTI's compliance with the Commonwealth's Overtime Statute c. 151, § 1B.
- C. KTI wishes to resolve fully and finally any and all claims or causes of action that may be brought by the Attorney General relating to the failure to comply with the Overtime Statute c. 151, § 1B.

NOW, THEREFORE, the parties set forth the following Terms of Agreement:

- A. KTI understands and agrees that the Attorney General will issue a civil wage

citation, Citation MW050005 for unintentional violations of GL c., 151, § 1B ordering \$79,678.58 in restitution and \$5,500 in penalty, concurrent with this Settlement Agreement. KTI waives any right to appeal Citation MW050005.

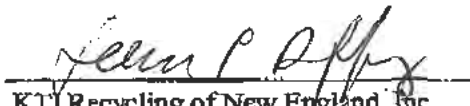
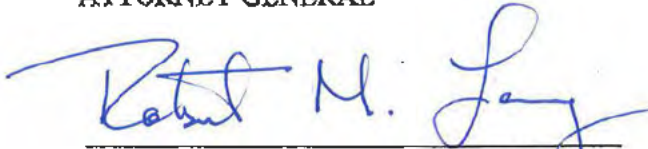
- B. KTI agrees to make full payment of restitution of overtime pay of \$79,678.58 to the employees listed in Exhibit A. The above referenced payments shall be made directly to the employees listed in Exhibit A, no later than February 22, 2005.
- C. KTI agrees to make full payment of civil penalties in the amount of \$5,500 relating to Citation MW050005 contemporaneously with the signing of this Agreement, and in no event later than February 15, 2005. This payment shall be delivered to Patricia Kelleher, Fair Labor and Business Practices Division, P.O. Box 6303, Boston, Massachusetts 02114, in the form of a certified bank check or money order made payable to the Commonwealth of Massachusetts.
- D. In the event that KTI is unable to locate or make direct payment to any of the employees indicated in Exhibit A, by February 22, 2005, KTI agrees to submit a schedule identifying the name, social security number, last known address and restitution amount related to such employees. KTI further agrees to pay the restitution relating to these employees through the Commonwealth and such payment shall be delivered to Patricia Kelleher, Fair Labor and Business Practices Division, P.O. Box 6303, Boston, Massachusetts 02114, in the form of a certified bank check or money order made payable to the Commonwealth of Massachusetts. KTI agrees to make delivery of this schedule and restitution payment no later than March 1, 2005.
- E. KTI agrees to provide any and all proof of the payment of restitution as the Attorney General may request, including, but not limited to, cancelled checks to be delivered no later March 15, 2005.
- F. KTI agrees to abide by all applicable Wage and Hour laws, both state and federal, as well as other employment related provisions, including but not limited to, those set forth by chapters 149 and 151 of the Massachusetts General Laws and the Code of Massachusetts Regulations pertaining to Overtime, Record Keeping, Minimum Wage, Worker's Compensation and Unemployment Insurance.
- G. In consideration of the foregoing obligations set forth in this Agreement, and conditioned upon KTI being in full compliance with all terms of this Agreement, the Attorney General hereby releases KTI from any criminal, civil, or administrative enforcement action or penalty for violations of law identified herein relating to violation of the Overtime Statute c. 151, § 1B, prior to December 31, 2004.
- H. In the event that KTI violates any terms and conditions of this Agreement any such violation(s) shall constitute a material breach, and the parties agree that this Agreement may be voidable by the Attorney General, and that the Attorney General

may pursue any and all remedies available including but not limited to, instituting any civil or criminal action for violations of law identified herein prior to the date of the execution of this agreement.

- I. Sean Duffy warrants and represents that he is the controlling officer and director of KTI, and that he has the authority to bind the corporation to the terms of the Agreement.
- J. This Settlement Agreement shall be governed by the laws of the Commonwealth of Massachusetts, for all purposes including enforcement, and may be amended or modified only in writing executed by the parties. The terms of this final settlement between the parties shall not be subject to appeal in any forum. This agreement constitutes the entire agreement between KTI and the Attorney General with respect to the matters discussed herein only, and it shall not bind any other private or governmental entity, nor release KTI from liability for any other conduct not identified herein.

COMMONWEALTH OF MASSACHUSETTS
THOMAS F. REILLY
ATTORNEY GENERAL

KTI Recycling of New England, Inc.,



COMMONWEALTH OF MASSACHUSETTS
By: Robert M. Lang
Assistant Attorney General
Fair Labor and Business Practices Division
1 Ashburton Place
Boston, MA 02108

KTI Recycling of New England, Inc.,
By: Sean Duffy, Vice President

EXHIBIT A

<u>Employees:</u>	<u>Total Restitution:</u>
	\$2,633.70
	\$147.60
	\$6,239.21
	\$480.31
	\$591.00
	\$3,568.24
	\$444.97
	\$1,608.38
	\$424.13
	\$162.30
	\$496.58
	\$8,297.88
	\$149.76
	\$4,458.83
	\$1,933.50
	\$7,018.76
	\$87.75
	\$2,714.95
	\$796.88
	\$627.08
	\$873.19
	\$6,698.73
	\$4,883.80
	\$5,751.15
	\$881.92
	\$2,104.93
	\$6,848.17
	\$393.12
	\$6,500.38
	\$1,861.38
Total Restitution:	\$79,678.58

CITATION FOR VIOLATION OF MASSACHUSETTS WAGE AND HOUR LAWS



The Commonwealth of Massachusetts Office of the Attorney General Fair Labor and Business Practices Division One Ashburton Place, Rm. 1813 Boston, MA 02108

KTI Recycling of New England, Inc.
24 Bunker Hill Industrial Park
Charlestown, MA 02129

- Order of Restitution \$79,678.58** **Civil Penalty \$5,500.00** **Total Due \$85,178.58**
 You are hereby ordered to rectify all infractions immediately and to comply with all provisions of Massachusetts General Laws, Chapters 149 and 151.
 Second or subsequent offense

After an investigation by the Fair Labor and Business Practices Division, you have been found in violation of the following provision(s) of the Massachusetts General Laws:

<input checked="" type="checkbox"/> M.G.L. c.151, § 1B	Failure to pay proper overtime rate for hours worked in excess of forty from 6/1/02 to 12/31/04 to:	
Violation # 1.	<input checked="" type="checkbox"/> Employee: See attachment A	Restitution \$79,678.58
2.	<input type="checkbox"/> Employee:	Restitution \$
3.	<input type="checkbox"/> Employee:	Restitution \$
4.	<input type="checkbox"/> Employee:	Restitution \$
5.	<input type="checkbox"/> Employee:	Restitution \$
<input type="checkbox"/> See attached for list of additional violations. <input type="checkbox"/> Intentional <input checked="" type="checkbox"/> Unintentional Penalty \$5,500.00 + Total Restitution \$79,678.58 = \$85,178.58		
<input type="checkbox"/> M.G.L. c.151, §19(1)	Retaliatory action taken against an employee for making complaint under c. 151	Date //
Violation # 1.	<input type="checkbox"/> Employee:	
2.	<input type="checkbox"/> Employee:	
3.	<input type="checkbox"/> Employee:	
4.	<input type="checkbox"/> Employee:	
<input type="checkbox"/> See attached for list of additional violations. <input type="checkbox"/> Intentional <input type="checkbox"/> Unintentional Penalty \$		
<input type="checkbox"/> M.G.L. c.151, §19(2)	Failure to pay state minimum wage from // to // to:	
Violation # 1.	<input type="checkbox"/> Employee:	Restitution \$
2.	<input type="checkbox"/> Employee:	Restitution \$
3.	<input type="checkbox"/> Employee:	Restitution \$
4.	<input type="checkbox"/> Employee:	Restitution \$
5.	<input type="checkbox"/> Employee:	Restitution \$
<input type="checkbox"/> See attached for list of additional violations. <input type="checkbox"/> Intentional <input type="checkbox"/> Unintentional Penalty \$ + Total Restitution \$ = \$		
<input type="checkbox"/> M.G.L. c.151, §19(3)	Failure to keep true and accurate payroll records from // to //	<input type="checkbox"/> Intentional <input type="checkbox"/> Unintentional Penalty \$
<input type="checkbox"/> M.G.L. c.151, §19(3)	Failure to furnish records for inspection on //	<input type="checkbox"/> Intentional <input type="checkbox"/> Unintentional Penalty \$
<input type="checkbox"/> M.G.L. c.151, §19(4)	Misclassification of employee for the purposes of evading c.151 requirements	Date //
Violation # 1.	<input type="checkbox"/> Employee:	
2.	<input type="checkbox"/> Employee:	
3.	<input type="checkbox"/> Employee:	
4.	<input type="checkbox"/> Employee:	
5.	<input type="checkbox"/> Employee:	
<input type="checkbox"/> See attached for list of additional violations. <input type="checkbox"/> Intentional <input type="checkbox"/> Unintentional Penalty \$		
<input type="checkbox"/> M.G.L. c.151, §19(5)	Unlawful solicitation, demand or request for an employee to return portion of wages	Date //
Violation # 1.	<input type="checkbox"/> Employee:	Restitution \$
2.	<input type="checkbox"/> Employee:	Restitution \$
3.	<input type="checkbox"/> Employee:	Restitution \$
4.	<input type="checkbox"/> Employee:	Restitution \$
5.	<input type="checkbox"/> Employee:	Restitution \$
<input type="checkbox"/> See attached for list of additional violations. <input type="checkbox"/> Intentional <input type="checkbox"/> Unintentional Penalty \$ + Total Restitution \$ = \$		

Inspector: Mario Rosado *Mario Rosado* Citation # MW050005 Date issued: 2/7/05
by Certified Mail # &004 0750 0000 5530 8222 and First Class Mail 2/7/05