



MAINE DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS

**ORDER TO PROTOCOL CONTACT SERVICES, INC. TO CEASE
OPERATIONS PURSUANT TO 26 M.R.S. §639**

The Commissioner of the Maine Department of Labor (“MDOL”), through her designee, the Director of the Wage and Hour Division, hereby orders Protocol Contact Services, Inc. (“the employer”) to cease its business operations in the State of Maine, pursuant to 26 M.R.S. §639. This Order is based upon the following Findings of Fact and Conclusions of Law Regarding Wage Theft. This Order is effective in 3 business days.

APPLICABLE LAW

26 MRS §621-A Timely and Full Payment of Wages 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.

26 MRS §639 Wage Theft Remedies The Commissioner of Labor or the commissioner's designee may order an employer to cease its business operations if the commissioner or the commissioner's designee determines that the employer has committed wage theft, the commissioner or the commissioner's designee has previously determined the employer's practice or policy resulted in wage theft on more than one occasion or within the last 12 months and:

- A. The practice or policy resulting in the wage theft affects 10 or more employees; or
- B. The wage theft is equal to or greater than twice an employee's average weekly wage.

Copies of these applicable sections of law are attached to this Order.

FINDINGS OF FACT

1. Protocall Contact Services, Inc. is properly qualified to conduct business activities in Maine. It operates a call center.
2. At least thirty-eight (38) employees work for the employer.
3. The employer has failed to pay twenty-eight (28) employees their full earned wages on the established pay dates from March 5, 2021 and continuing through the most recent pay period of June 11, 2021.
4. Pursuant to 26 M.R.S. §621-A, the employer's established pay dates were March 5, March 19, April 2, April 16, April 30, May 14, and May 28, 2021, and June 11, 2021.
5. On November 4, 2019, the Director of the Wage and Hour Division issued a notice of violation to the employer. In that notice, the Division found 112 violations of 26 M.R.S. §621-A for failing to pay ninety-five (95) employees on their established pay dates of September 6, 2019 and September 20, 2019. The Division also found 8 violations of 26 M.R.S. §664. In total, the employer failed to pay wages in the total amount of **\$110,917.60** as of September 20, 2019. The notice also assessed a penalty in the amount of \$22,500.00 for the violations of law. A copy of the notice of penalty to the employer is attached to this Order.
6. The employer did not appeal or otherwise contest the findings of the violations of law.
7. The employer entered into a settlement agreement with the Department of Labor on November 18, 2019. In that agreement, the employer agreed to pay \$2,250.00 in penalties and acknowledge and admit to the violations. The Department agreed to suspend \$20,250.00 of the penalties assessed as long as the employer had no additional violations of 26 MRS sections §621-A and §664 for two years from the date of the agreement. The employer paid the adjusted penalty on December 5, 2019.

8. After executing the settlement agreement on November 18, 2019, the employer again violated 26 M.R.S. §621-A by failing to pay its employees in full on the established pay dates of March 5, March 19, April 2, April 16, April 30, May 14, and May 28, 2021, and June 11, 2021. The employer again violated 26 M.R.S §664 by failing to pay overtime wages on each of the pay dates of April 30, May 14, and May 28, 2021.

9. On June 15, 2021, the Director of the Wage and Hour Division issued a notice of violation to the employer. In that notice, the Division found 63 violations of 26 M.R.S. §621-A for failing to pay twenty-eight (28) employees on each of the established pay dates between March 5 and June 11, 2021. The Division also found 4 violations of 26 M.R.S §664. In total, the employer failed to pay wages in the total amount of **\$60,522.96** on the established pay dates. At least \$33,840.50 remain unpaid as of June 14, 2021.

10. The notice of violation assessed a penalty in the amount of \$19,500.00 for the violations of law. A copy of the notice issued to the employer is attached to this Order.

CONCLUSIONS OF LAW REGARDING WAGE THEFT

11. By its actions in failing to pay its employees all wages earned on established pay days and failing to pay overtime wages, the employer has violated 26 M.R.S. §621-A and §664.

12. For purposes of 26 M.R.S. § 639 (“Section 639”), by violating 26 M.R.S. §621-A and §664, the employer has committed wage theft.

13. As set forth in the Division’s notice of penalty assessment issued on November 4, 2019, the Division Director determined that the employer’s practice of failing to pay its employees on multiple pay dates resulted in wage theft on multiple occasions.

14. After the employer received the Division's notice of penalty assessment on November 4, 2019, the employer again failed to pay its employees in full on each of the established pay dates between March 5, 2021 and June 11, 2021, resulting in additional occasions of wage theft.

15. The employer failed to pay wages to 28 affected employees on at least 8 separate occasions. The practice resulting in the wage theft affects 10 or more employees.

16. Therefore, in accordance with Section 639(3), the Commissioner's designee orders the employer to cease its business operations in the State of Maine.

17. This Cease Operations Order is effective in three business days from your receipt of this Order.

18. If the employer refuses to cease operations, this Order may be enforced in Superior Court.

Dated and mailed June 16, 2021.



Scott Cotnoir, Director
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NOTICE OF OPPORTUNITY TO BE HEARD

Pursuant to Section 639(3), the employer has 10 days to contact the Division Director to request a hearing. Such hearing will be held, remotely, within 7 business days of such request. The hearing officer will issue a decision within 5 business days of the hearing. The request for a hearing does not stay the effect of this Cease Operations Order unless the employer meets the provisions set forth below.

REQUEST FOR A STAY

Pursuant to Section 639(4), the Commissioner of Labor or the Division Director shall stay the issuance of this Cease Operations Order if the employer provides evidence acceptable to the commissioner or the Division Director that the employer has paid the employee or employees for the amount of unpaid wages owed and has implemented wage payment practices and policies that comply with 26 M.R.S. §621-A and §664.

NOTICE OF APPEAL RIGHTS TO COURT OF FINAL AGENCY ACTION

Any party wishing to appeal this decision must file an appeal in the Superior Court within 30 days after receipt of the decision. The appeal may be filed in the Superior Court in Kennebec County, located at Capital Judicial Center, 1 Court Street, Ste. 101 in Augusta, Maine, 04330. Alternatively, the appeal may be filed in the Superior Court located in the Maine county in which the appealing party has its principal place of business.

If the employer requests a hearing, and a hearing is held, the employer will have 30 days after receipt of the decision of the hearing officer to file an appeal in the Superior Court.

Attachments:

26 M.R.S. §621-A

26 M.R.S. §664

26 M.R.S. §639

Copy of notice of penalty assessment issued November 4, 2019

Copy of notice of penalty assessment issued June 15, 2021