

PCA-1

October 31, 1972

This is in reply to your letter of September 19, 1972, requesting certain information in connection with the above matter.

In paragraph two of your letter you state that you have been informed that in some instances, particularly where there is a first knowledge of any alleged violation of the Walsh-Healey Public Contracts Act--by reason of a first inspection by this Department--as was the case with regard to the company you represent in this matter, that the company is reprimanded, but not obligated to make any back wage payments so long as they agree to comply in the future.

You do not state, and we do not know, who may have made such a statement. However, the statement of the policy thus attributed to the Department is incorrect. We have consistently adhered to the position that contract violators of the overtime compensation requirements of the Act are liable for liquidated damages irrespective of their good faith. See *Standard Fabrication, Ltd.*, PC-297, Secretary's decision, October 3, 1950 (copy enclosed); and *Reynolds Research Corporation*, PC-381, October 24, 1951 (9 WH Cases 456, aff'd 10 WH Cases 472).

When a violation has been found, the statute requires the imposition of liquidated damages and does not authorize any remission thereof. The *Bray Co.*, PC-150, Secretary's decision of May 3, 1945; *Gita Molding Corp*, PC-255, Trial Examiner's decision, June 17, 1946; *Anderson & Christofani*, PC-291, Trial Examiner's decision, July 21, 1947; *Wagner Manufacturing Co.*, PC-144, Secretary's decision April 5, 1945. Copies of these decisions are enclosed.

You request in this connection that you receive a synopsis and memoranda of each company which has allegedly violated the Walsh-Healey Public Contracts Act and which has been relieved, without going through any litigation, of any back pay obligations under the Act. In view of our legal position, we are not aware of the existence of any such case.

In the last paragraph of your letter you request copies of the decisions of the Hearing Examiner, the Administrator, and the Secretary of Labor as to Administrative Hearings of the Walsh-Healey Public Contracts Act, inasmuch as it is your understanding there are no reported decisions in these cases. Decisions from 1940 to 1946 are summarized in Vol. 6 of the Wage and Hour Cases published by the Bureau of National Affairs. Subsequently, full decisions have been published in this series. Your attention is also directed to the published decisions in BNA's Labor Law Reporter, Wages and Hours, binder 6A, par. 99:801 et seq. Also, many of the decisions are headnoted in the Commerce Clearing House's Labor Law Reporter, Wages-Hours, Vol. 2 par. 26,107.05, et seq.

The Department has published an Index-Digest of the Administrative Decisions under the Walsh-Healey Public Contracts Act covering a period of 1942 through 1964. A copy of this 72-page booklet is available for examination and copying in our law library in Washington, D.C., and also in the Regional Solicitor's office at Nashville, Tennessee.

Finally, complete sets of these decisions are available at the Law Library, Room 6317, Main Labor Building, Washington, D.C. 20210, and also at our Regional Solicitor's Office, U.S. Court House Building, 801 Broad Street, Room 725, Nashville, Tennessee, 37303, where you may examine them, and if you wish, obtain copies for your use as provided in 29 CFR 70.62(a)(1) of the Department's regulations.

Sincerely,

Horace E. Menasco
Deputy Assistant Secretary