U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

JUN 1 6 1977

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PCU-732

This is in reply to your letter of May 25, 1977, concerning the division's investigation of ▓▓▓▓▓▓▓▓▓▓▓▓, Incorporated, of ▓▓▓▓▓▓▓▓▓▓▓▓▓▓. I have received a report on this matter from our Atlanta Regional Office.

The Wage and Hour Division enforces the Fair Labor Standards Act of 1938 (FLSA) which provides for minimum wage, overtime, equal pay, and child labor standards. The overtime provision of the FLSA does not permit the payment of a fixed salary to nonexempt employees as total compensation for workweeks of varying hours in excess of forty.

This investigation disclosed that in certain weeks nonexempt employees worked varying hours in excess of forty without receiving proper overtime pay. Since the firm failed to keep an accurate record of hours worked, these hours had to be reconstructed based on the evidence gathered in the investigation. Furthermore, the employer's allegation that the employees were engaged in personal pursuits during their workday was not raised during the course of the investigation. On the contrary, the results of the investigation indicated that the employees were on duty throughout the workday.

Since the firm declined to pay the back wages disclosed to be due the employees, the case file was referred to the Office of the Regional Solicitor for consideration of litigation. Therefore, you may prefer to address additional questions concerning this matter directly to the Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

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I regret any difficulty caused your constituent in this matter. The Division understands and sympathizes with the problems businesses, such as that of ████████. face in complying with the monetary requirements of the FLSA. However, these requirements have been applicable to millions of employees since the Act's inception and must be administered and applied uniformly.

I hope this information is helpful. If I can be of further assistance, please let me know.

Sincerely,

 /s

Administrator

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