

Raided factory, workers make deal on owed OT

By Brian R. Ballou, *Boston Globe*

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The former owner of a New Bedford leather goods factory raided by immigration officials early last year has settled a class-action lawsuit, agreeing to pay \$850,000 to former employees who worked up to 16 hours a day but weren't paid overtime.

The lawsuit alleged that Michael Bianco Inc. set up a sham corporation, Front Line Defense Inc., to avoid paying overtime wages to employees, many of whom were illegal immigrants. Employees who worked more than eight hours on the same day were required to clock out of day shifts at 5 p.m. from Michael Bianco Inc. and then clock back in for evening shifts at 5:30 p.m. with Front Line, the suit alleged. The workers received two separate checks, to make it appear they had not exceeded the 40 hours a week that would trigger time-and-a-half overtime pay, the suit says. The company made military backpacks and other equipment for troops in Iraq and Afghanistan.

"Most of the time, the workers were doing the same work on the same machine as they did during the day," said Audrey Richardson, senior attorney for Greater Boston Legal Services, which represented workers in the case, along with Philip Kassel, an attorney with South Coastal Counties Legal Services. Richardson spoke yesterday during a news conference to announce the settlement.

Michael Bianco Inc. was sold last year to Eagle Industries of Fenton, Mo.

The lawsuit, filed in federal district court in Boston last year, was brought by five former and one current employee of the factory but extends to 764 workers. The amounts of the compensation vary, depending on the hours of overtime each employee worked, with the majority of workers receiving from \$1,000 to \$5,000 but some getting as much as \$8,000, lawyers said. The six employees who raised the allegations will receive \$2,000 above the overtime wages, compensation for their efforts in bringing the lawsuit.

The award includes money for employees who were docked up to 30 minutes of pay for clocking in one or two minutes late after waiting in long lines to punch their timecards.

Getting the money to the workers, many of whom have been deported, will be the responsibility of the Department of Labor and Greater Boston Legal Services.

At the news conference in downtown Boston yesterday, several former employees, speaking Spanish and using a translator, discussed the settlement. The employees declined to comment on their immigration status.

Elsy Hernandez said she often worked 14-hour days, six days a week. "There were weeks when I would even work 16 hours a day but would not get any payment for overtime," she said. "Now in New Bedford, a lot of employers from different companies are learning and being cautious, because a lot of them were doing the same. Now they are paying better and paying overtime." Hernandez said she worked at the factory for almost four years and earned \$7.25 an hour. She said she will send a significant amount of her overtime check to her family in her homeland.

Digna Mendoza, another worker, said: "For a lot of people who were victims, this is going to help them and their families. What we're asking for is respect. For a lot of us, we come here to work and support our family."

Adrian Ventura, president of the New Bedford-based Organización Maya K'iche, which supports the local Mayan and Central American community, said last year's raids remain on the minds of many immigrants working in New Bedford. "They are so afraid; a lot of times they talk about those raids," he said, adding he hopes the lawsuit will "be a lesson to other employers to treat us with dignity."

Dozens of US Immigration and Customs Enforcement agents stormed the Michael Bianco factory on March 6, 2007, detaining 361 workers on charges they were in the country illegally. In the days following, federal authorities drew sharp criticism for the raid and its aftermath. Some detainees complained of poor conditions at detention facilities and of coercion to sign deportation documents.

Earlier this month, the former owner of the plant, Francesco Insolia, 51, of Pembroke, pleaded guilty to charges he hired and harbored illegal immigrants. He accepted a prison term of 12 to 18 months and a fine of \$30,000. The company will have to pay nearly \$2 million in fines and restitution. The restitution in that case will be put toward the settlement announced yesterday.

While yesterday's announcement marks an end for the two lengthy cases, dozens of former workers remain in immigration limbo. According to Immigration and Customs Enforcement officials, 116 cases are pending before immigration court. Of the 361 workers detained, 168 have been deported, 26 have received final orders for deportation, and 16 have had their legal status adjusted, allowing them to remain in the United States.

Richardson said she was sure other employers in the New Bedford area deny immigrant workers overtime pay. But "this is the tip of the iceberg," she said.

http://www.boston.com/news/local/articles/2008/11/19/raided_factory_workers_make_deal_on_owed_ot/