

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT

C.A. NO. 23-0024D

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

COMPLAINT

v.

MARK AUGUSTA,

Defendant.

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2023 JAN -5 A 9:29

I. INTRODUCTION

1. The Commonwealth of Massachusetts (the "Commonwealth"), by and through the Attorney General, Maura Healey, and the Inspector General, Jeffrey S. Shapiro, brings this action pursuant to Massachusetts General Law c. 12, § 5, against Mark Augusta (the "Defendant") to recover money he received for overtime shifts he falsely reported working as a Massachusetts State Police ("MSP") trooper.

2. The Massachusetts State Police (MSP), the principal statewide law enforcement agency in the Commonwealth, assigned the Defendant state roadway patrol overtime shifts. During these patrols, the Defendant was expected to engage in high-visibility enforcement of state traffic laws. The Defendant intentionally did not show for assigned shifts and left shifts early. Despite not working all or some of the shifts, the Defendant presented timecards to the MSP for the entire shifts with the intention of being paid for time he had not worked. The Defendant subsequently

promised to repay the money he received for the unworked time in an agreement with the MSP, which was a binding contract. However, the Defendant has made no such payments, in breach of the agreement.

II. JURISDICTION AND VENUE

3. The Commonwealth is authorized to bring this action pursuant to M.G.L. c. 12, §§ 5 and 10.

4. This Court has jurisdiction over the persons and subject matter of this action pursuant to M.G.L. c. 223A, § 3.

5. Venue in Suffolk County is proper pursuant to M.G.L. c. 223, § 5.

III. THE PARTIES

6. The Plaintiff, Commonwealth of Massachusetts, is represented by the Attorney General acting in conjunction with the Inspector General pursuant to M.G.L. c. 12A, § 11. The Commonwealth brings this action pursuant to M.G.L. c. 12, § 5.

7. The Defendant, Mark Augusta, is a resident of Lunenburg, Massachusetts.

IV. FACTS

A. TROOP E OF THE MASSACHUSETTS STATE POLICE

8. At all times relevant to this complaint, the Defendant was employed by the Massachusetts State Police (MSP) as a state trooper responsible for public safety. The Defendant took an oath to perform his duties in accordance with the requirements of the Massachusetts Constitution, the United States Constitution and the laws of the Commonwealth.

9. The MSP is organized into divisions: the Division of Field Services, the Division of Investigative Services, the Division of Administrative Services, the Division of Standards and Training, and the Division of Homeland Security.

10. The Division of Field Services, the largest of the five MSP divisions, is responsible for conducting motor and commercial vehicle traffic enforcement and investigating and assisting with accidents through patrols of the state's roads. At all relevant times, Troop E was a part of the Division of Field Services. Troop E patrolled the 138-mile length of the Massachusetts Turnpike and vehicular Boston tunnels.

11. At all times relevant to this complaint, the Defendant was a member of Troop E.

12. As part of its assigned responsibilities within MSP, Troop E conducted traffic safety and enforcement patrols, including Accident and Injury Reduction Effort ("AIRE") and "X-Team" patrols.

13. AIRE (also known as "Radar") patrols increased troopers' physical presence on the road by creating extra four- or six-hour overtime shifts. Troopers on AIRE patrols conducted zero-tolerance and high-visibility traffic enforcement.

14. X-Team (also known as "Aggressive Driver") patrols were focused on reducing aggressive driving behaviors by targeting vehicles traveling at extreme speeds and vehicles with multiple moving violations, such as distracted driving or "move over" law violations.

B. THE MASSACHUSETTS STATE POLICE INVESTIGATION INTO OVERTIME PATROLS OF TROOP E MEMBERS

15. In 2017, MSP launched an investigation into a Troop E member for misdating a motor vehicle citation. During the investigation, MSP uncovered that the trooper had submitted timecards for multiple AIRE shifts he had never worked. In addition, MSP found the trooper had changed the dates of multiple motor vehicle citations he had written to cover up his absences.

16. Because of these findings, the MSP began an investigation into all Troop E's 2016 AIRE shifts.

17. The MSP eventually expanded the investigation to AIRE shifts in 2015 and 2017 and other overtime shifts Troop E members worked, including, but not limited to, Radar, Aggressive Driver and X-Team patrol shifts in 2015, 2016 and 2017.

18. Through this investigation, the MSP determined that multiple Troop E members had submitted timecards for overtime they had not worked and that they had been paid for the unworked time. These Troop E members included the Defendant.

19. On July 9, 2020, the MSP issued a Personnel Order of Disciplinary Action suspending the Defendant without pay from September 1, 2020 to May 29, 2021 due to the following conduct:

Trooper Augusta, on various dates in 2015, 2016, and 2017, in the Commonwealth of Massachusetts, did commit an act which constituted a violation of the Massachusetts State Police Policy and Procedure. This occurred when Trooper Augusta arrived late and/or departed early from an assigned overtime shift; received compensation for hours of overtime that he did not work without advising the Commonwealth of the overpayment; and improperly submitted PayStation entries claiming hours of overtime that he did not work.

20. On July 13, 2020, the Defendant signed a form agreeing to waive his right to a hearing before an MSP Trial Board and accepting the recommended disciplinary action enumerated therein (the "Disciplinary Action Agreement"). The disciplinary action the Defendant accepted included a suspension without pay from September 1, 2020 to May 29, 2021, and an agreement to comply with a list of attached "stipulations."

21. One of the stipulations expressly stated that "Trooper Augusta shall pay restitution in the amount of Ten Thousand Eight Hundred Thirty-five Dollars and Six Cents (\$10,835.06) pursuant to a repayment agreement with the Division of Administrative Services. Said agreement shall be executed by Trooper Augusta and the Department by September 1, 2020."

22. On August 31, 2020, the Defendant signed such agreement to pay \$10,835.06 in restitution (the "Restitution Agreement"). He elected to pay the restitution through future bi-weekly deductions from his MSP payroll over 55 bi-weekly pay periods beginning after his suspension ended, between June 19, 2021 and July 15, 2023.

23. On December 14, 2020, the Defendant retired from the MSP before his suspension ended and before his bi-weekly deductions pursuant to the Restitution Agreement were to begin.

24. The Defendant received a dishonorable discharge from the MSP.

25. To date, the Defendant has not paid the MSP any of the restitution under the Restitution Agreement.

CAUSES OF ACTION

Count One

Breach of Contract

26. The Commonwealth re-alleges the allegations contained in Paragraphs 1–25 and incorporates them herein by reference.

27. Under the express terms of the Disciplinary Action Agreement and subsequent Restitution Agreement, the Defendant agreed to pay restitution to the MSP in the amount of \$10,835.06.

28. The Defendant has made no payments under the Disciplinary Action Agreement or Restitution Agreement, in breach thereof.

29. As a direct and proximate result of the Defendant's breach of the Disciplinary Action Agreement and Restitution Agreement, the Commonwealth has suffered actual damages and is entitled to recover the unpaid restitution plus interest under M.G.L. c. 231, § 6C.

PRAYERS FOR RELIEF

WHEREFORE, the Commonwealth requests that this Court:

1. As to Count One, enter judgment in favor of the Commonwealth and against the Defendant for the amount of the Commonwealth's damages, plus interest; and
2. Award the Commonwealth such other relief as the Court deems appropriate.

Dated: January 5, 2023

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS,

By its attorneys,

MAURA HEALEY,
Attorney General

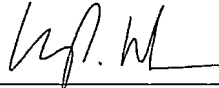
/s/ Amy Crafts

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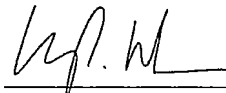


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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was e-filed and sent to the Defendant via email and Assistant Attorney General Amy Crafts.

Dated: January 5, 2023



William J. Durkin