



# The FAIR CONTRACTOR

A Publication of the Foundation for Fair Contracting of Massachusetts

Spring, 2008

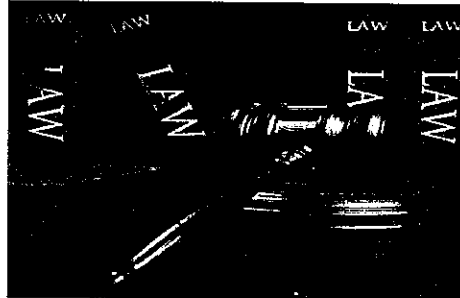
Volume 12, Issue 1

## Law-breaking Contractor Arraigned in Superior Court

George V. Wattendorf and his East Boston company, G.V.W., Inc., were recently arraigned in Suffolk Superior Court for alleged wage and other violations on numerous public construction jobs in Massachusetts. A total of fifteen counts of prevailing wage, overtime, and payroll records violations as well as two counts of perjury were charged. Perjury charges stemmed from Wattendorf's alleged misrepresentation on his Division of Capital Asset Management recertification application.

A former G.V.W. employee complaint triggered the

investigation by the Attorney General's Office that uncovered apparent violations at several job sites, including six school projects, and lead to the arraignment.



During the past three years, the Foundation for Fair Contracting of Massachusetts has sent nearly 200 mailings to G.V.W. employees on at least ten different public works jobs. FFCM mailings ap-

prise workers of the legal wages for their work classification on each project and inform them of their rights under the law.

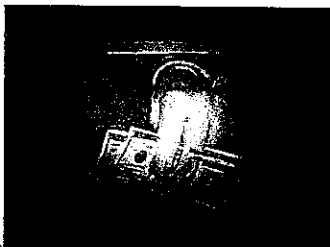
### FAIR CONTRACTING NUMBERS '07

In 2007 the FFCM:

- targeted 476 projects worth an estimated \$1.5 billion
- sent 2,550 packets to public construction workers
- transmitted 134 prevailing wage and related violations to various government agencies
- helped to recover \$344,000 for public construction workers

## GOVERNOR CRACKS DOWN ON LAWBREAKING CONTRACTORS

*New measure targets employers that violate wage, tax and labor laws*



Governor Deval Patrick wants to make Massachusetts a less hospitable place for contractors that knowingly break the law. The governor recently announced the creation of a

new task force that will crack down on employers who skirt wage and labor laws or misclassify their workers as independent contractors.

Governor Patrick announced the new initiative at the annual convention of the Massachusetts Building and Construction Trades Council in March. The measure was prompted by growing complaints by contractors and worker advocates that employers who follow the laws are increasingly being squeezed out of business.

"This is another way of trying to make the playing field level for employers who respect the law," says

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# Contractors of Shame

*The following contractors have been cited/debarred or required to pay settlements by the Attorney General's office for violating the state's wage and hour laws. The FFCM was involved in each case, helping construction workers file claims and get back the money they were owed.*

**AG Asbestos Inc.** of Lawrence MA and its owner, Regina Guzman of Methuen, MA, were each indicted on six felony charges, including workers' compensation fraud, larceny by false pretenses and unemployment tax evasion. Guzman and the company allegedly underreported the company's payroll by approximately \$1.3 million to both its workers' compensation insurer and to the Division of Unemployment Assistance. The company has also been accused of directing employees to cash their paychecks for a fee at a Lawrence liquor store. AG Asbestos then bought back the paychecks for 102% of their value.

**Reliable Window & Siding Inc.** of Canton, MA and its owner, Albert Distefano, Jr., must pay **\$95,346** in back wages and **\$5,000** in civil penalties after failing to pay prevailing wages to more than 50 employees who worked on the Edgewater Apartments Pynchon II Rehabilitation & County Lane Estates Improvement Work project in Springfield, MA. Workers on the project notified the FFCM that employees of subcontractors were not receiving the prevailing wage.

**Tornare Construction Corp.** of Watertown, MA and its owner, **James DiStefano**, must pay eight employees **\$46,655.38** in back wages due to a missed step increase. The company was also fined **\$9,530** in civil penalties for failing to submit accurate certified payroll records for work performed on the Melrose Pump Station public works project. The AG's office determined that the certified payroll records Tornare had submitted to the City of Melrose did not accurately reflect what the eight employees were really being paid.

**Premier Caulking** was issued a civil citation in the amount of **\$4,000** for failure to pay prevailing wages to workers on

the Chelsea Soldier's Home public works project. Company and its owner have been debarred from November 8, 2007 through July 7, 2008

**Patriots Environmental Corp.** has been ordered to pay a total of **\$20,769** in restitution and penalties after failing to pay prevailing wages for work performed on the Auburn High School Parking Lot Demolition Project.

**Vicheth Enterprise Inc.** of Lowell, MA must pay a total of **\$19,414** in back wages and penalties after failing to pay prevailing wages for work performed on the Medfield Middle and High Schools. Between April 2004 and August 2004, the company underpaid 16 workers.

**Barille Corporation** of Marlboro, MA and its owner, Anthony R. Barrile, must pay a total of **\$14,669.67** in civil penalties and back wages after failing to pay prevailing wages to six employees who worked on several Massachusetts public works projects between 2004 and 2005. The company also failed to submit true and accurate certified payroll records for work performed on a number of projects including the Assabet River Rail Trail.

**P.A. Landers** has agreed to pay a total of **\$10,170.73** to 17 laborers who were employed on the Abington Route 18 project. The FFCM became aware, after reviewing certified payrolls, that the contractor had been paying a low rate than the law requires and transmitted the case to the AG's office. The case was settled; no citation was issued.

**Veterans Scaffold Services, Inc.** of Blackstone, MA and its president, Kenneth G. Schmitt, must pay **\$8,989.30** (\$1,150 in civil penalty and \$7,839.39 in restitution) after failing to pay prevailing wages for work performed on the Mount Wachusett Community College Library Renovations public works project in Gardner, MA.

**Precision Door & Window Inc.** of Stoughton, MA and its owner, Albert Distefano, have been ordered to pay a total of **\$7,395.90**. The company underpaid seven laborers who worked on the Watertown Housing Authority public works project between June 2006 and September 2006. A worker from the company alerted the FFCM last spring that all workers on the job were being classified as laborers regardless of their trade.

**Vegetation Control Service Inc.** of Athol, MA and its owner, Laurey Kenerson, were ordered to pay a total of **\$7,190.64** in restitution and civil penalties for failure to make timely payment of wages to workers employed on various Massachusetts Highway Department public works projects. The company also received a civil



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citation in the amount of **\$500** for failure to submit certified payroll records for the projects. FFCM monitors had tried repeatedly to inspect the company's payroll records and were finally forced to notify the AG.

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**Green Acres Landscape and Construction Co.** of Lakeville, MA was issued a civil citation in the amount of **\$3,544.47** for failure to pay prevailing wages for work performed on the Belmont Highland Meadow Cemetery public works project.

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**Bortolotti Construction** of Marston Mills, MA must pay **\$5,311** after failing to pay the prevailing wage to six workers on the Wannacomet Water Main Replacement project in Nantucket, MA.

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**Arena's Fencing Inc.** of Springfield, MA and its owner, Mark Arena, must pay **\$3,715.41** for failing to pay overtime rate to employees who worked on the Park & Athletic Fields Site public works project in Agawam, MA. The total includes a \$780 civil penalty and \$2,935.41 in restitution.

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**Fine Steel, Inc.** and its owner, Mathew Fine, were issued civil citations for intentional failure to pay prevailing wages and intentional failure to furnish records for inspection in the amount of **\$3,570.52** while working on the Wastewater Treatment Facility public works project in Lee, MA.

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**Agostino Associates** of Newton, MA was issued a civil citation in the amount of **\$3,155.40** for failing to pay prevailing wages for work performed on the Police Station in Dennis, MA.

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**Paul J. Rogan Co. Inc.** of Braintree, MA and its owner, Paul J. Rogan, must pay **\$1,757.98** (\$750 in civil penalty and \$1,007.98 in restitution) for failure to pay prevailing wages for work performed on the Police Area-1 Station public works project in Boston MA.

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**Nial Construction** of Kittery, ME paid **\$1,632** in back wages and penalties after failing to pay prevailing wages for work performed on the North Reading Police Department.

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**Waterman Excavating Inc.** of Cheshire, MA must pay a civil citation in the amount of **\$2,608.56** for failure to pay prevailing wages for work performed on the Williamstown Water Treatment Plant project.

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**The following contractors were cited by the Attorney General's office for various payroll records violations while employed on public works projects:**

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**Suburban Middlesex Insulation inc.** of Canton, MA must pay a civil citation in the amount of **\$1,500** for failure to

furnish certified payroll records for inspection while working on the Greenfield Community College Demolition & Asbestos Abatement project.

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**Guenther Construction, LLC** of Bristol, CT must pay a civil citation in the amount of **\$200** for failure to submit true and accurate certified payroll records for work performed on the Easton Middle School project.

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**General Excavating Co. Inc.** of Framingham, MA and its owner, Phillip George, were issued a civil citation in the amount of **\$500** for failure to submit true and accurate certified payroll records while working on the Fire Station project in Ayer, MA.

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**Attention public construction contractors working on projects in Massachusetts. State law now requires that you submit photocopies of apprentice IDs to the appropriate awarding authorities. Failure to do so could result in a citation by the Attorney General's office.**

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**Brite-Lite Electrical Co. & LeVangie Electric** were issued civil citations totaling **\$1,500** for failing to submit photocopies of apprentice IDs to the awarding authorities for work performed on the Taunton Elizabeth Pole School project and the Police Station project in Dennis, MA.

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**MEET THE NEW MONITOR**



The Foundation for Fair Contracting is pleased to introduce its newest field monitor, Kris Courtney, who will be monitoring public construction projects in Essex, Middlesex and Worcester counties. Prior to joining the FFCM, Kris spent two years working in the state's

Department of Unemployment Assistance where he helped the agency transition from a paper-based record keeping system to an online method of tracking employer contributions. In his new position, Kris will be collecting and analyzing certified payroll records as well as attending bid openings for public construction jobs in central and eastern Massachusetts. Kris is already well-versed in compliance and enforcement issues; he worked at the FFCM offices for several years while attending the University of Vermont. When he's not collecting payrolls and helping to ensure that contractors in the Commonwealth are respecting wage and hour laws, Kris can often be found enjoying life in the outdoors. "I love camping and hiking." Welcome aboard, Kris!

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## AG: Bidders Must Comply with 'Responsible Employer Ordinances'



According to the Attorney General's Office, contractors bidding on public construction projects in Massachusetts cities and towns that have so-called responsible employer ordinances on the books *must* meet the terms of those laws in order to

win the bid. The decision was prompted by a recent dispute between the city of Fall River and an HVAC contractor that successfully bid on a public works project there. After Montle Plumbing and Heating CO, Inc. was granted the contract, a rival contractor pointed out that the company does not have a state-approved apprentice training program for sheet metal workers as the local ordinance requires.

Fall River is one of more than 20 cities and towns in

the Commonwealth that have adopted ordinances setting minimal standards for contractors who work on construction projects funded by tax-payer dollars. In addition to the apprentice training stipulation, the ordinances often require contractors to provide construction workers with health insurance as well as to classify their workers as employees rather than as independent contractors.

Karen Courtney, executive director of the Foundation for Fair Contracting, which has helped to get employer ordinances passed in several cities and towns, says that the AG's decision is significant. "These laws are only as strong as the enforcement mechanisms behind them. This sends a clear message to contractors that they have to respect responsible employer ordinances as a condition of bidding."

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Karen Courtney, executive director of the Foundation for Fair Contracting of Massachusetts. "When contractors and other employers underpay their workers or pay them under the table, it hurts everybody: the employees, contractors that play by the rules and the economy of Massachusetts."

Nine state agencies, including the Department of Labor, the Attorney General's office and the Department of Revenue, will participate in the taskforce which will target industries where an "underground economy" has taken hold. In his remarks, Governor

Patrick singled out construction as an industry in which law breaking is widespread. He cited a Harvard University study that found that construction contractors in Massachusetts routinely misclassify their workers, claiming that they are independent contractors rather than employees, to get out of paying benefits, payroll taxes and workers' compensation.

"This is the first time that all of these agencies will be working together to make sure that our laws are enforced," says Courtney. "It's a real step forward for construction contractors that play by the rules."

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