



The FAIR CONTRACTOR

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State Suspends 5 Contractors' Apprentices Programs

Five Massachusetts contractors' apprenticeship programs, including two painting contractors have had their apprenticeship programs suspended by the Department of Labor and Industries, Division of Apprentice Training for violations of state law.

The two painting companies, Homer Contracting, Inc. of Arlington and Bay State Contracting Co., Inc. of North Pembroke, were notified of the suspensions in letters sent August 24 by Division Director Gayann Wilkinson. Two other contractors, A & M Roofing and Sheet Metal Co, and ZSE, Inc. have also received suspensions for violations of Massachusetts General Laws Chapter 23.

Framingham Contractor's Program Hit With Late September Suspension

As *The Fair Contractor* goes to press, the FFCM received notice that Eastern Contractors, Inc., of Framingham has had its Apprenticeship program suspended as of September 25, 1995. The suspension comes under Massachusetts General Laws Chapter 23, Section 11 - 11L and will be in effect until Eastern provides a classroom instruction curriculum according to a letter from Field Representative Elaine Kosky.

Division Director Wilkinson's letter also cited MGL Chapter

23, Sections 11E - 11L, as the reasons both painting contractors' programs were suspended saying the companies had failed to comply with Section 11I (4), "A provision for approximately one hundred and fifty hours per year of related classroom instruction for the apprentice during said period of apprenticeship shall be included therein".

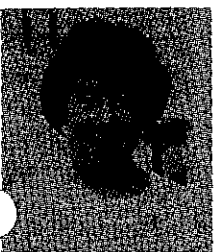
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New FFCM Program Targets Apprenticeship Abuse

A new program launched by the Foundation for Fair Contracting of Massachusetts (FFCM) is targeting abuses of the apprentice classification on public construction projects. The FFCM has developed a direct mail campaign, using public payroll records, to inform apprentices of their rights under state law and to assist workers who wish to file complaints about misclassification, non-payment of wages or violations of prevailing wage rates.

The FFCM is cooperating with the Massachusetts Division of Apprentice Training (DAT) and the Attorney General's Office on the project. The FFCM has prepared and submitted to the AG's office a "Position paper" on the apprenticeship system, apprenticeship laws and the consequences of non-compliance.

Federally Debarred Contractor Dropped From Mass Jobs



Northampton Mayor Mary Ford

Diversified Steel Erections of Rhode Island, a firm debarred from federal projects for forcing employees to kick-back wages, was dropped from public projects at both ends of the Commonwealth in late July.

On July 20, after protests from the Pioneer Valley Building Trades Council and Ironworkers Local #357, Northampton Mayor Mary Ford had Diversified Steel removed from work on a public school project.

A week later, Somerville Mayor Michael

Capuano took action against Diversified after complaints by the FFCM and Ironworkers Local #7 that the firm was not registered in Massachusetts. The company was allowed to continue the project after complying with state law.

Diversified's involvement in a Cambridge School project was the basis for a city council order calling for more through investigations of companies doing business with the city. Cambridge City Councillor Timothy Toomey sponsored the resolution this summer..



Somerville Mayor Michael Capuano

\$50,000 Back Pay For Roofing Company Employees

A Gloucester roofing company agreed to pay its employees more than \$50,000 in back pay in an agreement with Attorney General Scott Harshbarger's office after the company admitted to sufficient facts in a prevailing wage violation case.

The settlement stems from a February 1995 case where criminal complaints were issued in Lowell District Court against Stanley Roofing, Inc., of Magnolia, for allegedly failing to pay the prevailing wage rate to roofers working on a Tyngsborough High School project.

The roofers were paid as laborers, and were wrongfully underpaid \$7 an hour.

The settlement requires Stanley to pay \$50,461 to the employees who worked on the Tyngsborough job, as well as workers on 11 other projects completed by Stanley Roofing between 1989 and 1993.

Criminal Complaints Issued Against Medford Contractor that Allegedly Under- paid Employees by \$30 an Hour

Three criminal complaints have been issued out of Somerville District Court against a Medford contractor that allegedly underpaid its employees working on publicly-paid projects by as much as \$30 an hour.

The complaints were issued against New England Reliance Electric, its president, Stephen Dilendick, and its general manager, David Vivian, for alleged violations of the Massachusetts prevailing wage laws.

All three defendants were each charged with two counts of failing to pay the prevailing wage. In addition, New England Reliance Electric and Dilendick were also charged with two counts of failure to provide true and accurate payroll record.

The alleged violations took place between September of 1992 and July of 1993, while New England Reliance was completing electrical work on the Riverside Community Health Project and the St. Paul's Elderly and Family Housing Project, both in Cambridge.

The complaint alleges that New England Reliance's employees were being paid at the apprentice rate for electricians, when they should have been earning \$30-an-hour more. The employees are allegedly owed \$29,000 in back wages.

Case Reviews

Malden Contractor Pleads Guilty to Prevailing Wage Violations

A Malden contracting company has pled guilty to violating the state's prevailing wage laws and has been barred from public works projects for six months.

Albanese D & S Incorporated of Malden pled guilty in Framingham District Court in late July to a violation of the prevailing wage law. Albanese D & S must pay its employees \$5,454 in restitution for the back wages owed them for work completed in 1993 on the Hopkinton lateral sewer and pump projects.

The machine operators were entitled to hourly rates of \$8 and \$9-per-hour more than the wage they were being paid by Albanese D & S.

Complaints Issued Against New Hampshire Contractor for Wage Violations

Attorney General Scott Harshbarger announce on August 10, 1995 that criminal complaints have been issued against a New Hampshire subcontractor for allegedly failing to pay its employees and failing to provide workers' compensation coverage.

Criminal complaints were also issue against Laurence M. Hamel, of Newton, N.H., a subcontractor who does business as L.M. Hamel Builders. Hamel was charged with six counts of nonpayment of wages, four counts of failure to pay the prevailing wage, one count of failure to keep true and accurate payroll records, one count of unemployment fraud and one count of failure to provide workers' compensation insurance.

In 1994 and 1995, Hamel's company was allegedly completing work on the Merrimack Valley Regional Transit Authority maintenance garage in Lawrence. Hamel allegedly paid two of his employees between \$6 and \$9 less than the state prevailing wage. The employees are allegedly owed nearly \$10,000 in back wages.

In addition, Hamel allegedly has not made any payments to employees since May 13, 1995, and has never provided workers compensation insurance over the 16 months of the project.

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Case Studies...

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Wage Violation Cases Stack-up in September

Attorney General Harshbarger's Office took action on two wage violation cases during one week in September.

On September 18, the AG charged DER, Incorporated of Waltham with 12 counts of failure to pay the prevailing wage, two counts of failure to provide true and accurate payroll records and five counts of unemployment fraud. The alleged violations involved 12 employees working as carpenters, laborers and pipefitters at the Lexington Main Pump Station between July 1992 - February 1994.

A total of \$140,000 in back wages is allegedly owed the workers and the complaints allege that more \$7,000 in unemployment taxes are owed the state.

\$86,000 in Back Pay

A Taunton Contractor paid \$86,000 in back wages and was debarred for six months from bidding on public projects after pleading guilty to prevailing wage violations on September 19.

Massasiot Electric Company and its president John Meserve pled guilty on the charge stemming from projects at the Framingham Fire Station and the Willet Elementary School in Attleboro between 1992 - 1994.

"I will continue to use the prosecutorial and enforcement resources of my office to recover lost wages on behalf of the hard-working tradespeople in our state. Depriving tradespeople out of mandated wages that have been earned is unacceptable, and those who violate the law will be forced to pay or face prosecution."

**- L. Scott Harshbarger,
Massachusetts Attorney General**

Immigrant Workers Targeted

On September 20, a Dudley contracting firm and its president were arraigned in Fitchburg District Court for alleged violations of the state's prevailing wage laws and underpaying workers up to \$46,000 on a roofing job.

Zbigenew Mrocza, of Dudley and president of MDM, Inc., was arraigned on one count of failure to pay the state prevailing wage and one count of failure to keep true and accurate public works records.

MDM, Inc., a firm that largely employs immigrants and

Davis-Bacon Reform Measure Expected to Move on Capital Hill

Republican attempts to repeal the federal Davis-Bacon Act were renewed after the Congress returned from Summer Recess. However, six Republican Senators are backing a reform bill that would change the prevailing wage law and their support, along with Democratic Senators is expected to kill any further repeal efforts.

Senator Mark Hatfield (R-Or) introduced a Davis Bacon Reform bill (S.1183) that has the support of six other Republican Senators, the AFL-CIO Building and Construction Trades Department and a large coalition of union contractors. Hatfield's bill would raise the Davis-Bacon threshold to contracts of \$100,000 from the present \$2,000. The bill would also require contractors to submit wage and benefit data monthly, instead of weekly. A similar bill, H.R. 967 has been filed in the House.

President Clinton has pledged to veto any bill that repeals Davis-Bacon protections.

recently-naturalized citizens, was also charged with one count of failure to pay the prevailing wage and one count of failure to keep accurate payroll records.

MDM Inc., began work replacing the roof at Memorial Middle School in Fitchburg in November 1994. Throughout the project, MDM paid their employees as laborers - - a rate more than \$4-an-hour less than the state mandated rate for a roofer. In addition, The Attorney General's Office alleges that MDM only paid employees for half the hours they worked.

"Preying on immigrants by underpaying and misclassifying them is a crime my office will continue to pursue," said Attorney General Scott Harshbarger. "We will continue to enforce the prevailing wage laws in this state to create a level-playing field for all contractors."

Apprenticeship Programs Suspended

Continued from Page 1

Both Homer and Bay State failed to provide classroom curriculum when requested. Bay State Contracting also violated Section 1V of the standards of apprenticeship by laying-off apprentices in violation of the Continuous Employment provision of the agreement. "You basically say you employ the apprentices only for contract work with the city of Boston", Wilkinson told the contractor, "When there is no contract work the apprentices are laid off. This act violates your signed standards of agreement."

"Misuse of Apprenticeship classification is just another way of cheating workers and taxpayers on public construction projects," said FFCM Co-Director Karen Courtney.

Contractor Indicted for Alleged Fraud on Public Projects at 3 Lowell Schools

FFCM Assists 3 Year Investigation

A Tewksbury contracting company and its officers have been indicted for 27 counts of fraud in connection with public works projects at three Lowell schools. The FFCM helped employees of the contractor gather materials and file complaints with the AG's Office almost 3 years ago.

S&C Concrete Floors & Company, Inc., of S. Tewksbury; Stephen Hill, 52, president; and Christopher Hill, 50, treasurer, were indicted on June 30 by a Middlesex County Grand Jury.

S&C Concrete Floors was indicted on one count of failure to pay prevailing wages to workers, one count of failure to provide payroll records and one count of failure to keep true and accurate records,

Stephen and Christopher Hill were each indicted on one count of prevailing wage violations, failure to provide payroll records, failure to keep true and accurate records and failure to provide workers' compensation insurance; four counts of failure to pay unemployment contributions; two counts each of unemployment fraud; and two counts each of larceny.

The alleged violations occurred in 1992, while S&C was a subcontractor for Eastern/Congress on the Acre, Centralville and Highland Schools. The prevailing wage was \$32.70 per hour, but S&C allegedly only paid its workers \$10 to \$12 per hour.

If convicted, the Hills face a maximum of five years in state prison and fines of up to \$10,000 on each count of unemployment fraud, \$2,000 for the charges of failure to provide payroll records and failure to keep true and accurate records and a fine of \$1,500 for the workers' compensation charge.

The Foundation for Fair Contracting

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Fact Sheet From the Massachusetts Department of Industrial Accidents

Did you know?

Massachusetts employees are covered by the workers' compensation system, including employees of businesses who illegally, **do not** provide workers' compensation insurance. (This coverage includes the corporate officer(s) and full and part time employees of "not for profit" organizations.)

-The workers' compensation cost for all Massachusetts employees is paid for by those employers who **do** provide workers' compensation insurance for their employees.

-Department of Industrial Accidents (DIA) estimates that 60-70% of employers in Massachusetts that require workers' compensation insurance provide appropriate coverage.

-DIA conducted 6,713 employer fraud investigations in 1995 that resulted in 4,039 Stop Work Orders to employers for not having workers' compensation insurance.

-Over the last two years, DIA Employer Fraud Investigators have contributed to more than 44,000 workers being brought under workers' compensation coverage (and indirectly to many thousands more), a reduction of over 25% in employer's workers' compensation premiums and an estimated annual savings to employers of \$250 million.

-Workers' compensation insurance benefits both the employee and the employer - the employee in the event of an industrial accident and the employer against catastrophic medical and compensation bills.

-Business **and** labor are strong supports of DIA's efforts to reduce employer fraud.

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