



The FAIR CONTRACTOR

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SOUTH DARTMOUTH CONTRACTOR ADMITS TO \$62,000 IN WAGE VIOLATIONS; Workers forced to 'kick-back' wages to company

"We don't often see a violation of this magnitude: not only was the company trying to get out of paying the rate, but they were also asking for 'cash rebates' from the workers."

*Janine Yodanis,
FFCM Field Monitor*

ral recently announced. Luiz pled guilty in New Bedford District Court to seven counts of failing to pay the prevailing wage rate and one count of failing to provide true and accurate payroll records in connection with public works projects that were performed between the spring of 1994 and the fall of 1995.

The charges stem from Luiz's failure to pay more than \$62,000 in wages to employees at J.S. Luiz 3rd Inc., his North-Dartmouth based business. In addition, workers were routinely forced to 'kick-back' a portion of their wages to Luiz and the company. The workers were hired to perform duties on several southeastern Massachusetts public works projects including a Millbury storage fa-

cility, a Dartmouth DPW sewerage line and a Swansea sanitary facility.

According to David Gregory, a machine operator who began working for Luiz in 1994, the company regularly asked its employees, who were receiving prevailing wages, to give a portion of that money back to the company. Gregory spoke of finding a note attached to his paycheck telling him "to give Joe back" the difference in cash.

This is not the first time that J.S. Luiz and his construction company have run afoul of prevailing wage laws in Massachusetts. In 1996, the contractor was investigated by the U.S. Department of Labor and was ordered to pay back wages to construction workers on a federally funded project in New Bedford.

According to Janine Yodanis, Field Monitor for the Foundation for Fair Contracting of Massachusetts: "We don't often see a violation of this magnitude: not only was the company trying to get out of paying the rate, but they were also asking for 'cash rebates' from the workers." Luiz has been ordered to pay full restitution to the employees.

NEW BIDDING PROCESS ENACTED FOR SCHOOL INTERNET JOBS *Training and Insurance Now Required for Federal Funding*

A new bidding process was recently enacted by the Massachusetts Legislature for contractors hoping to work on jobs funded under the federal Universal Service Fund. The fund, which was established by the federal Telecommunications Act of 1986, could provide more than \$2 Billion worth of internet-related work this year. More than 800 applications for funding have been submitted by schools and libraries across the Commonwealth of Massachusetts. Under the new process, contractors will be required to have a state approved apprentice training program AND an active workers compensation policy in order to be qualified to perform the work.

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Survey Enclosed!

Help Us Help You

It's time for another FFCM survey of contractors in the state. Your answers will help us assess the state of fair contracting in Massachusetts. You'll find the survey form inside. Postage is paid and all responses are confidential. Please fill it out and send it in today!

LEGAL BEAT

FRAMINGHAM LANDSCAPER ADMITS TO WAGE VIOLATIONS

Francis Venuto, president of **Franny's Landscaping Co., Inc.** of Framingham, has admitted to multiple wage violations, including

failing to pay workers more than \$15,000 in wages and failing to submit accurate payroll records. Venuto's company was hired to complete the landscaping for the South Lawrence East School public works project from April 1995 until July 1995. During that time, Venuto allegedly paid two of his employees less than \$13.00 per hour for their work, while the prevailing wage rate for the project was more than \$24.00 per hour. In addition, neither Venuto nor his company provided certified payroll records to the Attorney General's office after being requested to do so. Venuto has been ordered to pay \$15,000 in restitution in addition to being debarred from any public works projects for three months.

CRIMINAL COMPLAINTS ISSUED AGAINST ELECTRICAL CONTRACTOR

Criminal complaints have been issued against James Galvin, president of **James Galvin Electrical Company**, based in Newton, for allegedly

failing to pay his employees nearly \$9,500 in back wages. Galvin has also

been charged with failure to pay the correct prevailing wage as well as failure to provide true and accurate payroll records. The complaints stem from alleged violations that took

place between April 1996 and October 1997, during which time Galvin and his company were hired to do electrical work on the Brewster Elementary School in Brewster and other public works projects. In a separate instance, Galvin allegedly neglected to compensate an employee with paid step increases required for apprentices on a public works job. If convicted, Galvin faces up to two months in jail, fines of up to \$15,000 dollars and a six month debarment from public works projects.



CONSTRUCTION COMPANY PRESIDENT CHARGED WITH WAGE VIOLATIONS

A Norwood construction company and its president are charged with failing to pay workers more than \$14,000 in wages on several public works projects. Dennis Clifford allegedly failed to pay employees the prevailing wage

while they worked for D. Clifford Construction, Inc., his Norwood-based business. Three employees were allegedly underpaid while engaged in paving streets in Norwood, Concord and Boston between April 1995 and December 1995. Clifford is also charged with failing to keep true and accurate payroll records on behalf of the construction company during the time in which the violations took place. Clifford and his company were sentenced to pay full restitution in the amount of \$14,044 as well as \$5,000 in court costs.

FFCM CLASS-ACTION SUIT GOES FORWARD

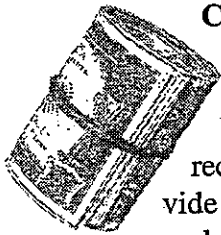
A class-action lawsuit filed by five former employees of **Roads Paving, Inc.** and **Roads Corporation**, is moving forward after a Justice of the Superior Court dismisses a counterclaim filed by Roads charging the employees with abuse of process.

The class-action suit was filed on March 24 on behalf of several former employees and a class believed to number more than 200 current and former employees. The plaintiffs alleged that Roads Paving Inc. and Roads Corporation did not pay them the full hourly wage mandated by state law for the public projects that they worked on, particularly when they worked overtime.

In response to the lawsuit, Roads Corporation filed a counterclaim alleging abuse of process, arguing that the complaint was really filed, in part, to gain leverage for a labor union trying to organize workers at Roads Corporation, a non-union contractor.

The Middlesex Superior Court dismissed Roads' counterclaim, stating that "the Court's examination of the complaint and supporting affidavits makes it eminently clear that there is reasonable factual support and an arguable basis in law for the plaintiffs' claim."

The plaintiffs allege that Roads Paving Inc. and Roads Corporation did not pay them the full hourly wage mandated by state law for the public projects they worked on, particularly when they worked overtime. They are asking for back pay and triple damages, which could amount to a recovery of more than \$1 million.



**Confused about
prevailing wage laws?
Call the FFCM at
1-800-224-FAIR**

WAGE RATE CONFUSION PROMPTS NEW CLASSIFICATIONS

In recent years, an increasing number of electrical workers who do fire alarm installation work have reported what could be either legitimate confusion or intentional deception on the part of electrical contractors. The question is, does fire alarm installation work on public projects require the telecommunications rate, or the higher electrician's rate?

In response to this confusion, the State Division of Occupational Safety, the agency that sets state prevailing wage rates, recently took action to reinforce what it felt had always been the proper rate. The Electrician's rate applies to "the initial installation of fire alarm systems." The telecommunications rate applies to "repair and/or maintenance of existing fire alarm systems."

In a letter to the Attorney General's office of wage enforcement, the Division announced two new classifications to help eliminate the confusion. Beginning on October 26, 1998 the classifications of Fire Alarm Installer and Fire Alarm Repair/Maintenance began appearing on prevailing wage sheets. A Fire Alarm Installer will receive the same wage and benefit amounts as someone who is classified as an Electrician. Fire Alarm Repair/Maintenance will carry the telecommunications package. Hopefully, this clarification will alleviate any further confusion.

If you are paying workers the telecom rate for the installation of new fire alarm systems, you are in violation of the prevailing wage law.



Office of the Attorney General, Fair Labor and Business Practices Division

Debarment List

1. **W.G. Burns and Sons, Inc. and William G. Burns, President**, 476 Kenoza St., Haverhill, MA 01850—Debarred for three years beginning August 26, 1997 **through August 26, 2000.**
2. **Roosevelt Building Products, Roosevelt Morin, President**, P.O. Box 1779, Bristol, CT 06010—Debarred for three years beginning September 23, 1997 **through September 22, 2000.**
3. **M.P.E. Equipment Leasing, Inc.**, 11 Sunset Road, Braintree, MA 02184—Debarred for three years beginning January 20, 1998 **through January 20, 2001.**
4. **Mark D. Wilton**, 35 Pilgrim Village Road, Taunton, MA 02780—Debarred for one year beginning March 27, 1998 **through March 27, 1999.**
5. **Joseph McKeown**, 4 Court St., Suite 106, Taunton, MA 02780—Debarred for one year beginning March 27, 1998 **through March 27, 1999.**
6. **Creative Construction and Improvements, Inc., CCI, Inc., Vicki Malone Wright, President**, 267 Wilbraham Road, Springfield, MA 01109—Debarred for a period of seven years beginning March 25, 1998 **through March 24, 2005.**
7. **Caruso and McGovern Construction, Inc., Gerald McGovern, President, and Steven J. Caruso, Treasurer**, One Industrial Way, Georgetown, MA 01833—Debarred for a period of six months beginning July 17, 1998 **through January 17, 1999.**
8. **Roy Lee, Jr.**, 269 Stonyhill Rd, Bldg G-1, Apt. 109, Wilbraham, MA 01095—Debarred for a period of one year beginning September 10, 1998 **through August 6, 1999.**
9. **Francis A. Waterman**, 97 Main St., Cheshire, MA 01225—Debarred for a period of six months beginning September 10, 1998 **through March 10, 1999.**
10. **K & J Mechanical, Adalgisa Donnellan, President**, 91 Hibiscus Ave, Weymouth, MA 02188—Debarred for a period of one year beginning September 21, 1998 **through March 21, 1999.**
11. **Sentry Corporation and John T. Jacobus, President**, 21 Fottler Road, Hingham, MA 02043—Debarred for a period of six months beginning September 24, 1998 **through March 24, 1999.**
12. **Bremco, Inc., Reginald Morse, President**, P.O. Box 1491, Claremont, NH 03743—Debarred for a period of six months beginning October 8, 1998 **through April 8, 1999.**
13. **GSP, Inc., Gregory Pimenta, President**, 140 Rear Fremont St, Taunton, MA 02780—Debarred for a period of six months beginning October 20, 1998 **through April 20, 1999.**



The Fair Contractor is published quarterly by the non-profit Foundation for Fair Contracting of Massachusetts. Our mailing address is Box 256, State House Station, Boston, MA 02133 For information, call 1-800-224-FAIR.

NEW BIDDING PROCESS ENACTED FOR SCHOOL INTERNET JOBS

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In order to gain state approval, apprenticeship programs must provide classroom instruction as well as paid, supervised training in tel/data installation. The apprentices must also be paid a wage that increases according to a series of steps, reflecting their gradually increasing skills and abilities.

The new process also requires that contractors performing telcom/teldata work on federally-funded jobs have workers compensation insurance for their employees, a measure intended to protect those performing the physical work of wiring our schools and libraries for the 21st century.

Finally, the measure offers some much needed clarification regarding the prevailing wage law: any contract that is funded by the Universal Service Fund will be considered rated work. The guarantee of wage protection will mean that the millions of dollars spent wiring the schools and libraries will be shared by contractors AND their employees; the training and insurance requirements will ensure that the workers doing the wiring will be both skilled and safe.

*If you want more information about the Universal Service Fund, visit their web site at:
<http://www.slcfund.org>.*

FFCM WELCOMES NEW MEMBER

The FFCM is pleased to welcome on board the Labor Management Cooperative Committee, a partnership between IBEW Local 223 and the Southeastern Mass. National Electrical Contractors Association. The Committee represents both workers and contractors in the region south of Brockton to the tip of Provincetown. According to Tim Caton, agent/organizer for Local 223, "we are pleased to be part of an agency that can help level the playing field for all contractors in Southeastern Massachusetts." *Welcome aboard!*

FFCM TO PARTICIPATE IN ANNUAL MUNICIPALITIES CONVENTION

The Foundation for Fair Contracting will participate in the annual Massachusetts Municipal Association Convention. According to FFCM research director Brett Smith: "This event gives us a great opportunity to inform Massachusetts towns about the prevailing wage laws and the responsibilities that towns and contractors have under the law. It's also a lot of fun." FFCM representatives will be on hand January 15-16. Stop by and see us!

The Fair Contractor welcomes your letters to the editor. Do you have a problem, a gripe, a beef? Send it to the Foundation for Fair Contracting, P.O. Box 256, State House Station, Boston, MA 02133

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