

The Prevailing Wage



Watch

Volume Three, Issue One

A NEWSLETTER FOR CONSTRUCTION WORKERS

Winter, 1999

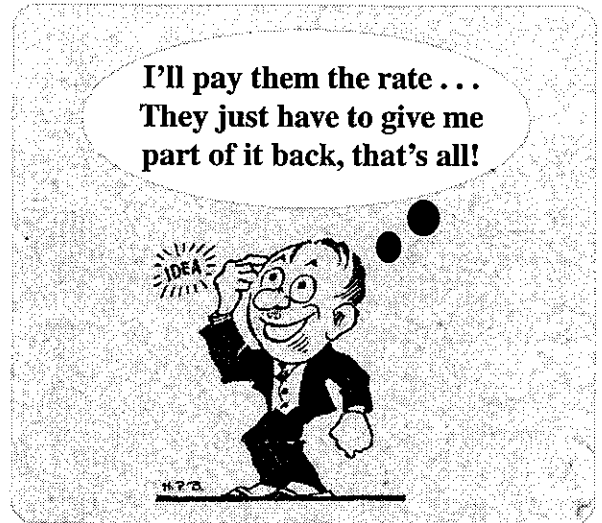
The Kick-Back Scam

Don't let it happen to you!

You get your paycheck on a Friday afternoon, but there's something different about it. Attached to the check is a note telling you 'to give your boss back' a part of your wages in cash. What would you do?

A machine operator who worked for North Dartmouth contractor J.S. Luiz, found a note just like this. He and some of his co-workers were hired to work on a number of public works projects in Southeastern Massachusetts, including a storage facility in Millbury and a sewage line in Dartmouth. According to Gregory, employees on the projects were getting prevailing wages—they just weren't supposed to keep them all!

In November, 1998, Joseph Luiz admitted in New Bedford District Court that he had failed to pay seven of his workers a total of \$62,000 for their work on four public works projects. According to the Attorney General's office, "workers were routinely forced to kick back a portion of their wages to Luiz and the company."



It's hard to believe that scams like this still go on, but according to the results of our recent survey of Massachusetts construction workers, when it comes to finding new ways to cheat n' scam, some contractors are always thinking. "My employer agreed to pay prevailing wages and then asked for a certain amount back," wrote one floorlayer.

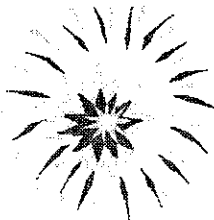
Contractors are also creative when it comes to taking out fringe benefits, noted several respondents: "I don't know if we are being cheated but they take out \$3600 in fringes in 3 months and put 20% of that back in a 401K and keep 80% for themselves." Wrote an equipment operator: "My forced 20% IRA fund doesn't add up at the end of the year. They hand write the 20% taken out, but if you save stubs it doesn't add up to what's turned in annually."

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NEW WAGE LAW HELPS CONSTRUCTION WORKERS GET BACK WAGES



Massachusetts has a new state law that makes it easier to go after employers who don't pay overtime or prevailing wages. The new law says that your boss could be fined up to \$25,000 if he or she fails to pay the rate on public works jobs. The new law also makes it easier for workers to prove that they've been cheated out of wages. The law applies to all public construction projects in the state that were publicly bid after February 4, 1999. If you have questions about the law, or if you think you may have been cheated out of wages, call the Attorney General's Wage Complaint line at 617-727-3477 or the Foundation for Fair Contracting at 1-800-224-FAIR.



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Compliance Man



At the Foundation for Fair Contracting, our phones ring all day long with questions from workers wanting to know what their rights are. To answer some of your questions, we've recruited a new helper--Compliance Man. He knows a lot about the law and he's up on all of the latest contractor scams (he looks good in tights too!) If you've got a question for Compliance Man, just send it to the address listed below.

Dear Compliance Man:

I'm a waterproofer and my boss pays me by the square foot. Is this right?

Dear Waterproofer:

Unless the wage you're getting per foot is equal to or greater than the prevailing rate, your boss deserves a good swift kick with a square foot! If you are working on publicly-bid, publicly-funded construction (such as work done on bridges, libraries or schools) you should be getting the prevailing wage. By law, your boss is also required to post a wage rate sheet that says how much each trade should be making. If he 'forgot' to post it and you're not sure how much you should be getting, call 1-800-224-FAIR. I suggest that you start keeping a log of the jobs that you're working now, that way, if you decide to file a complaint with the Attorney General's office, you'll be ready to go.

Dear Compliance Man: You guys are always telling us to *keep a log of the job* and even though I'm a regular Wage Watch reader, I still have no clue what that means.

Dear Clueless: We heard from one guy who said he couldn't keep a log from the job because he wasn't working near any woods. Anyway, you can't just say that your boss didn't pay you the right wage or overtime, you have to be able to prove it. How much did you get paid? Do you have pay stubs or copies of your pay checks? Where were you working and who were you working with? What kind of jobs were you doing? Here's a sample:

Got a question about your rights on the job? Ask Compliance Man. He'll know the answer. send it to The Foundation for Fair Contracting, P.O. Box 256 Boston, MA 02133-0256

Log Book

*Johnson Masonry--
Worked for Fred Pitts
King Middle School
January 25, 1999--Monday
Worked with Joe D., Bryan M.
and Crystal R.*

7:00 am--started

*2 hours- shoveled sand,
mixed mortar*

3 hours- stripped forms

1/2 hour - lunch

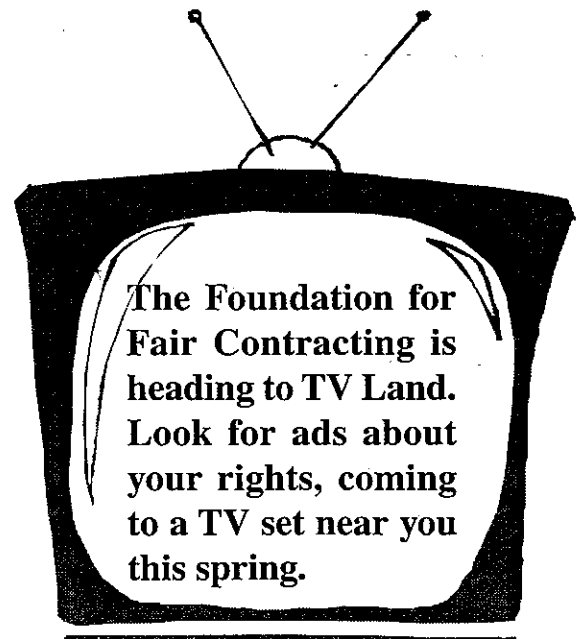
1 hour checked staging

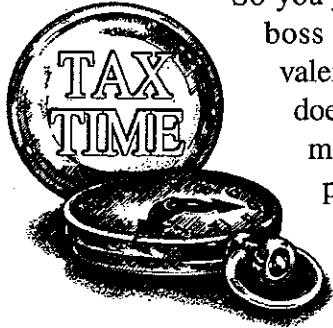
2 hours - built form

3:30pm--quit

Keep in mind, it doesn't have to be fancy--any piece of paper will do. The more evidence you have to back up your claim that you've been ripped off, the faster you're likely to get some money returned to you.

Hope this helps!
Compliance Man





So you just got something from your boss in the mail and it wasn't a valentine, but a Form 1099. What does it mean? For starters, it could mean that your boss is trying to pull one over on you. By classifying you as a '1099,' it means that your boss considers you an independent contractor. You're not alone. A growing number of employers are classifying their workers as independent contractors in order to get out of paying benefits, taxes and workers' comp. But the IRS has strict standards about who is or isn't an independent contractor, and according to them construction workers rarely meet those standards. Let's take a look:

- If I'm self employed, how come I'm always getting bossed around?
- Good point! The IRS says that if someone is telling you when, where and how to work, you are probably an employee and NOT an independent contractor.
- I work for one company, on one job site at a time. If I was really an independent contractor, wouldn't I work on a bunch of different projects?

- Most likely you would. The IRS says that if you normally work for one business at a time and they set your hours AND provide your tools, materials and equipment, you are probably an employee and NOT an independent contractor.
- This is the second year in a row that I've received a FORM 1099 from my boss. I know I'm not an independent contractor and I've got plenty of evidence to prove it. How do I get this guy to play straight?
- The IRS has a form (big surprise!) you can fill out to determine whether you are an independent contractor or an employee. It's called an SS-8 and you can get one by calling 1-800-829-1040. Send it in before you file your taxes, or if there isn't enough time, send all your forms in together. If the IRS determines that you are an employee, then your boss can no longer classify you as an independent contractor. The IRS will also contact your boss to share the good news with them.

*Tax questions? The Foundation for Fair Contracting might be able to help. ?
Call 1-800-224-FAIR for info. ?*

Construction Watch

The results of the FFCM's second annual survey are in! Here are some of the things you told us:

- The average age of construction workers surveyed is 41
- 96% are male
- The average length of employment is 10 years
- 25% of the workers were once apprentices
- Workers estimate that 51% of contractors cheat on the Prevailing Wage
- 72% have some form of health insurance
- 65% have a pension
- 40% say they rely on the FFCM for prevailing wage information
- 45% of workers believe they would be fired for making an overtime complaint
- The average worker works 140 hours of OT a year.



The Wage Watch is published quarterly by the non-profit Foundation for Fair Contracting of Massachusetts. The FFCM mailing address is Box 256, State House Station, Boston, MA 02133. *The Wage Watch* accepts Letters-to-the-editor. For information, call 1-800-224-FAIR.

The Kick-Back Scam: Don't Let it Happen to You

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How can you make sure that this kind of scam doesn't get pulled on you? If you get a note from your boss asking for cash payments, there probably is something funny going on. The examples that our readers described involving fringe benefits, can be a little bit more difficult to put your finger on. What may appear to be deceit on the part of your employer (wrote one worker: "the secretary has a knack for fudging paperwork") could just be confusing information or a genuine error. Here are a few pointers:

\$ Contact the Attorney General. If your boss is asking for cash payments, he or she is breaking the law. Call the AG's Wage Complaint 617-727-3477 for more information.

\$ Keep good records. If a law is being broken, you'll need some evidence on your side. Keep your pay stubs or any records of fringe benefit transactions that seem questionable.

\$ Call the Foundation for Fair Contracting. There aren't many scams left that we haven't heard of. Call us at 1-800-224-FAIR and we'll help you figure out what's going on.

\$ Trust your instincts. If you think something is wrong, it could very well be.

Where to Find Help

FFCM Hotline

1-800-224-FAIR

The Industrial Accident Board

1-617-727-4900

National Labor Relations Board

1-617-565-6700

Occupational Health & Safety Administration

1-617-565-7164 (OSHA)

Mass. Dept. of Labor & Industries

1-617-727-3492

Division of Apprentice Training

1-617-727-3486

IRS--for Tax-related Questions

1-800-829-1040

Attorney General's Office--Wage Complaints

1-617-727-3477

AG's Springfield Office

1-413-784-1128

AG's Pittsfield Office

46 Summer St. Pittsfield

(Open Tuesday) 1-413-784-1128

AG's Worcester Office

340 Main St., 2nd Fl., Worcester

(Open Mon. & Tues.) 1-508-792-9404

AG's Fall River Office

(Open Tues.) 1-508-672-9026

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