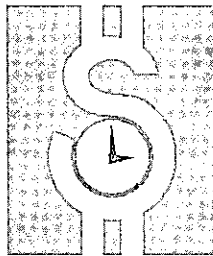


# The Prevailing Wage



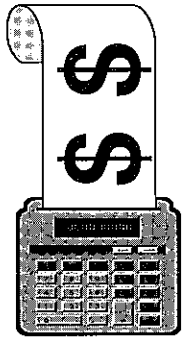
# Watch

Volume Three, Issue Two

A NEWSLETTER FOR CONSTRUCTION WORKERS

Winter, 2000

## Tax Time is Here Again



One of your friends comes over to watch the game in a new truck. Another is going on a trip over April vacation. A third just bought his kids a new computer. All three used the tax returns they recently received in the mail.

However, you find that because your employer classified you as an **Independent Contractor** all year - you received a Form 1099 in the mail and he didn't have to withhold any tax - so you owe. You find that you have to fill out separate forms that require you to pay up to 39.6% of your earnings because you, a construction worker, were considered a "business."

And it doesn't stop there. Many employers who misclassify their workers often illegally cut corners elsewhere. Most do not pay unemployment insurance, workers compensation insurance, or social security benefits. So if you get hurt on the job, laid off, or someday want to retire, you're out of luck.

*cont. on back page*

## Pay Back!



Every month, the Foundation receives dozens of calls from workers who have been ripped off by their employers. We help these workers file complaints with the AG's Office. Here are some cases transmitted by the FFCM where workers have won back money from their employers:

A former employee of **GVW** received a check for **\$15,000** as a result of a complaint filed with the Attorney General. The worker had been misclassified as a laborer while performing carpenter's work. One of the reasons for his success was that he had kept a detailed log book and all of his paystubs to show exactly where he was working, what he was doing, and how much he was paid!

Several workers from **Cedrone** contacted the FFCM and claimed they were not paid the rate on a street reconstruction project in Belmont and Newton. A complaint was filed and the company was debarred for six months. The workers received up to **\$12,000** each in restitution.

An anonymous complaint taken by the FFCM resulted in an investigation of **Tasco Construction** on the M.D.C. Charles River Dam project. The workers received **\$6,000** as a part of a settlement agreement.

**Owens Insulation** workers owed money on the Whitman Middle School project in Hanson received **back pay** as a result of an AG investigation and settlement agreement.

As a result of employee complaints to the FFCM, **Top Shelf Installations** was debarred from public work for three months and their workers received **back pay**.

## APPRENTICE ALERT

If you're an apprentice, you'll want to check the list on page 3 for the name of your employer.

Every year the Massachusetts Division of Apprentice Training (DAT) takes inventory of its registered apprenticeship program sponsors to make sure they're complying with state apprenticeship laws and regulations. The biggest problem usually involves classroom instruction (the law requires classroom instruction in addition to on-job training). DAT then publishes a list of program sponsors/employers who have been suspended for violations.

*cont. on page 3*

## What's Inside?

**Compliance Man ..... p. 2**

**New Law Pays Off ..... p. 2**

**Suspension List ..... p. 3**



## Compliance Man

*Compliance Man comes to the rescue of workers once again by answering their questions about taxes, wages and other issues. He's on the job!*

### Dear Compliance Man:

I recently got a letter from the FFCM with a copy of a payroll my boss submitted for a road job we did last summer near Fitchburg. It said all laborers were paid \$25.90 an hour when we were really paid \$16. I was then laid off but may be called back soon. Do I still have to work for this contractor to get my money back? How much time do I have to make a complaint and can I keep my name a secret? - *Ticked-Off in Townsend*

### Dear Ticked-Off:

First of all, you have three years to make a complaint, regardless of whether you still work for your boss. Your complaint is not anonymous, but then neither was your boss when he reached into your pocket to rip you off. If you really insist on staying with your employer, you'll want to be keeping a log book of all the hours you work as well as all your pay stubs. When you are ready, you can file your complaint.

On the other hand, you may find that you've put up with enough cheating and just file right away, especially if you've been keeping records and pay stubs already. Be sure to call the Foundation at 1(800) 224-FAIR to find out more.

### Dear Compliance Man:

I work as a backhoe operator, lately in the Berkshires. My boss told me last week that it's "complicated" in figuring out when it's a prevailing rate job. Just what is the lowdown on private vs. public jobs?

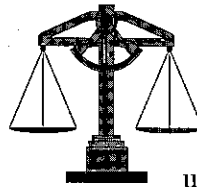
-*Curious in Pittsfield*

### Dear Curious:

While it's true in some cases that it can be difficult to know when the rate applies, there is also a certain common sense involved. Officially, it is the state's Department of Labor that sets the required "minimum wage rates" for all the various trades on a project. These "rate

jobs" are, generally speaking, what you might expect: what we traditionally think of in terms of being not-for-profit, tax-supported or publicly-owned services. Examples could include public schools, libraries, town halls, roads, bridges, senior centers, sewers, etc. (That local E-Z-Mart that is building an extension or expanding its parking lot is probably NOT going to be a rate job....)

The rates are supposed to be posted on the job site, though they are sometimes hard to find anywhere. If you don't feel comfortable with either the answer your employer gives you or with approaching the Clerk of the Works, always feel free to call the folks at the Foundation, at 1(800) 224-FAIR. Why leave it to guess work? They have this information on tap, and are happy to confidentially assist you with any other questions!



## New Law Pays Off

The new prevailing wage law continues to make progress in the battle to bust unlawful contractors. Below are some of the recent cases handled by the AG's Office.

### **Mario S. Susi, Jr., Mario Susi & Sons, Inc.**

Failed to pay the prevailing wage on a public works project. Also failed to provide true and accurate payrolls.

Total ordered to pay: \$2,000

Inspector: Jeremy Banks

### **Maureen McKenna, Sharpe Painting Contractors, Inc.**

Intentionally failed to submit certified payroll records to the awarding authority on the Berlin Public Safety and Municipal Facilities Building Project. A month later, they were found guilty of the same offense.

Total ordered to pay: \$1,250

Inspector: Greg Reutlinger

### **Dave Gardner Contractor and Supply, Inc.**

Failed to furnish true and accurate payroll records on the Lemuel Shattuck Hospital Project. Intentionally failed to furnish true and accurate payroll records on the Vinson Owen School Project.

Total ordered to pay: \$754

Inspector: Robert Galvani

### **Jacey R. Barrett, Barrett Building Contractors**

Had four intentional violations of the Prevailing Wage Law on a Northampton Housing Authority Project. They did not pay the prevailing wage, they did not submit payrolls on a weekly basis, they failed to furnish payroll records to the AG, and did not furnish true and accurate payrolls for the project.

Total ordered to pay: \$5,272

Total restitution: \$3,922

Inspector: Steve Spencer

**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**

# Apprentice Alert (cont. from page 1)

The employers on the list below were suspended effective November 17, 1999 – April 6, 2000. During this time they are no longer registered apprenticeship sponsors and **may not legally classify or pay any of their employees the lower apprentice rate on state or federal projects.** And after April 6, 2000, these companies must reapply to DAT if they want to become sponsors again. They are not automatically reinstated.

So if your employer is on “**THE LIST**,” and they’ve paid you the lower apprentice rate any time since November 17, 1999, they owe you money. Call the Foundation For Fair Contracting Hotline at 1-800-224-FAIR to find out how to get what you’re owed.



**Suspended  
for  
Violations**

**ABC Sprinkler**  
21 Soldiers Field Place  
Brighton, MA 02135

**All Phase Elec. Services, Inc.**  
811 Wasington St. #5 (Rt. 53)  
Pembroke, MA 02359

**Alliance Electrical, Inc.**  
6 Wilkins Drive Suite 207  
Plainville, MA 02762

**Amber Electric Co., Inc.**  
8 Lionel Lane  
Pembroke, MA 02359

**Bello Painting Co., Inc.**  
P.O. Box 316  
Malden, MA 02186

**Eagle Point Builders, Inc.**  
54 Burnham St.  
Belmost, MS 02178

**Fire Suppression Systems, Inc.**  
3 Cook St.  
Douglas, MA 01516

**G.E.H Heating and Cooling**  
700 Kempton St.  
New Bedford, MA 02740

**George Robbins & Co., Inc.**  
21 Soldiers Field Place  
Brighton, MS 02135

**GSP, Inc. (active)**  
140 Rear Fremont St.  
Taunton, MA 02780

## The List

**Heckman Masonry Corporation**  
19 Thayer St.  
Nothboro, MA 01532

**KDK Enterprises**  
145 Newton St.  
Waltham, MA 02541

**M.D.M. Industries Inc.**  
51 Sawmill Td.  
Dudley, MS 01571

**Manny's Plbg. &Htg., inc.**  
Buckler St.  
Springfield, MS 01119

**Michael E. Courtney Electric**  
14 Jon Drive  
Belchertown, MS 01007

**N.E.L. Corporation**  
1 Farm Lane  
Georgetown, MA 01833

**Polyphase Electrical, Inc.**  
644 Pleasant St.  
Leominster, MA 01453

**PPC Constructors, Inc.**  
P.O. Box 150  
Ware, MA 01082

**Robert Berger Electric**  
30 Samuel Drive  
N. Grafton, MA 01536

**Star Electric Co.**  
53 Caryll St.  
Boston, MA 02126

**Texas Instruments**  
34 Forest St. Bldg 10, Mail Stat. 1017  
Attleboro, MA 02703

**Victory Htg & Air Conditioning**  
115 Mendon St.  
Bellingham, MA 02019

**W.D. Fowler Inc.**  
516 Worcester Rd.  
Wellesley, MA 02181

**W. Mass Wldg. & Boiler Rep. Co.**  
1 Searle Rd.  
Huntington, MA 01050

**W. F. Johnson & Son Elec. Co., Inc.**  
35 A. Tannery Rd.  
Southwick, MA 01077

**Wilson Plbg. & Htg.**  
55 South St.  
Easthampton, MA 01027

**W.R. Rich Co.**  
9 Den Quarry Rd.  
Lynn, MA 01904

**Youngblood, Co. Inc.**  
32 Ashland St.  
Haverhill, MA 01830

**Z.S.E. Inc.**  
114 Old Bosotn Tpke  
Hubbardston, MA 01452



*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.



# Tax Time (cont. from Pg. 1)

Workers who receive 1099's have the ability to fight back. The IRS uses a 20 Question Test to determine whether or not a worker was properly classified as an **Independent Contractor** or should have been classified as an employee. Here are just a few:

- Does someone tell you when, where, and how to work?
- Does the business train you to perform services in particular manner?
- Does the business provide your tools, materials and other equipment?
- Does the business hire, supervise, and pay workers?
- Does the business set your work hours?
- Are you are paid by the hour, week or month?
- Are you are required to work full-time or be available full-time?

If you answered "yes" to all or a majority of these, you probably should have been classified as an employee, not an independent contractor.

So what do you do now? You can call the IRS at 1-800-829-1040 and ask for information, or you can pick up a Form SS-8 from the IRS. The SS-8 is the form the IRS uses to determine whether or not you should have been classified as an employee and had your taxes withheld during the year. So don't just look at your friends' tax returns with envy, take matters into your own hands and fight back!

## Where to Find Help

**EFCM 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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