

STATE OF NEW YORK: DEPARTMENT OF LABOR

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In the Matter of

Champion Construction Services Corp.;
Muhammad Pervaiz, Fay Matthew, and Fazia
Gina Ali-Mohammed, as officers and/or shareholders of
Champion Construction Services Corp.;

**DEFAULT
REPORT
&
RECOMMENDATION**

Prime Contractor

for a determination pursuant to Article 8 of the Labor Law
as to whether prevailing wages and supplements were
paid to or provided for the laborers, workers and mechanics
employed on a public work project for the Metro North
Railroad.

Prevailing Wage Rate
PRC No. 2011010282
Case ID: PW082013002922
Westchester County

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To: Honorable Mario J. Musolino
Acting Commissioner of Labor
State of New York

Pursuant to a Notice of Hearing issued on April 24, 2015, a hearing was held on June 24, 2015 in Albany, New York and by videoconference with White Plains, New York. The purpose of the hearing was to provide all parties an opportunity to be heard on the issues raised in the Notice of Hearing and to establish a record from which the Hearing Officer could prepare this Report and Recommendation for the Commissioner of Labor.

The hearing concerned an investigation conducted by the Bureau of Public Work ("Bureau") of the New York State Department of Labor ("Department") into whether Champion Construction Services Corp. ("Prime") complied with the requirements of Labor Law article 8 (§§ 220 *et seq.*) in the performance of a public work contract involving the replacement of platform guardrails with new ADA compliant guardrails, and the installation of end gates and ladders to the New Haven Line stations located in the Town of Westchester, State of New York ("Project") for Metro North Railroad ("MTA") ("Department of Jurisdiction").

HEARING OFFICER DESIGNATION

John W. Scott was designated as Hearing Officer and conducted the hearing in this matter.

APPEARANCES

The Bureau was represented by Department Counsel, Pico Ben-Amotz, Elina Matot.

There was no appearance made by, or on behalf of Prime.

FINDINGS AND CONCLUSIONS

On May 1, 2015, the Department duly served a copy of the Notice of Hearing on Prime, via regular and certified mail, return receipt requested. Signed Return Receipts evidencing receipt of the document by Muhammad Pervaiz and Fay Matthew, individuals identified by the Department to be officers and/or shareholders of Prime, were entered into evidence as Hearing Officer Exhibit 2. The Notice of Hearing scheduled a June 24, 2015 hearing and required the Respondents to serve an Answer at least 14 days in advance of the scheduled hearing.

Prime failed to file an Answer to the charges contained in the Notice of Hearing or appear at the hearing. As a consequence, Prime is in default in this proceeding.

The Notice of Hearing alleges that Prime underpaid wages and supplements to its workers.

At the hearing, the Department produced substantial and credible evidence, including the sworn testimony of the Bureau investigator, and documents describing the underpayments, which supported the Bureau's charges that:

The Project was subject to Labor Law article 8; and

Prime entered into a contract for the Project with the Department of Jurisdiction; and

Prime willfully underpaid \$92,144.07 to its workers for the audit period weeks ending 04/01/2012 to 06/30/2013; and

Prime falsified its payroll records in connection with that willful underpayment;
and

Muhammad Pervaiz is an officer of Prime; and

Fay Matthew is an officer of Prime; and

Fazia Gina Ali-Mohammed is an officer of Prime; and

Muhammad Pervaiz, Fay Matthew, and Fazia Gina Ali-Mohammed knowingly participated in the violation of Labor Law article 8.

On October 4, 2013, the Department issued a Notice to Withhold Payment to the Department of Jurisdiction in the amount of \$168,998.30.

For the foregoing reasons, the findings, conclusions and determinations of the Bureau should be sustained.

RECOMMENDATIONS

Based upon the default of Prime in answering or contesting the charges contained in the Department's Notice of Hearing, and upon the sworn and credible testimonial and documentary evidence adduced at hearing in support of those charges, I recommend that the Commissioner of Labor make the following determinations and orders in connection with the issues raised in this case:

DETERMINE that Prime underpaid its workers \$92,144.07 on Project PW082013002922, PRC No. 2011010282; and

DETERMINE that Prime is responsible for interest on the total underpayment at the statutorily mandated rate of 16% per annum from the date of underpayment to the date of payment; and

DETERMINE that the failure of Prime to pay the prevailing wage or supplement rate was a "willful" violation of Labor Law article 8; and

DETERMINE that the willful violation of Prime involved the falsification of payroll records under Labor Law article 8; and

DETERMINE that Muhammad Pervaiz is an officer of Prime; and

DETERMINE that Fay Matthew is an officer of Prime; and

DETERMINE that Fazia Gina Ali-Mohammed is an officer of Prime; and

DETERMINE that Muhammad Pervaiz, Fay Matthew, and Fazia Gina Ali-Mohammed knowingly participated in the violation of Labor Law article 8; and

DETERMINE that Prime be assessed a civil penalty in the Department's requested amount of 25% of the underpayment and interest due; and

ORDER that the Bureau compute the total amount due (underpayment of \$92,144.07, interest at 16% from date of underpayment and 25% civil penalty); and

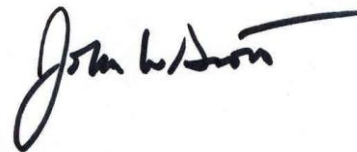
ORDER that Department Of Jurisdiction remit payment of any withheld funds to the Commissioner of Labor, up to the amount directed by the Bureau consistent with its computation of the total amount due, by forwarding the same to the Bureau at: NYS DOL, Bureau of Public Work, Room 204, White Plains, NY 10605; and

ORDER that if the withheld amount is insufficient to satisfy the total amount due, Prime, upon the Bureau's notification of the deficit amount, shall immediately remit the outstanding balance, made payable to the Commissioner of Labor, to the Bureau at the aforesaid address; and

ORDER that the Bureau compute and pay the appropriate amount due for each employee on the Project, and that any balance of the total amount due shall be forwarded for deposit to the New York State Treasury.

Dated: November 10, 2015
Albany, New York

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John W. Scott", written in a cursive style.

John W. Scott, Hearing Officer