

STATE OF NEW YORK: DEPARTMENT OF LABOR

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In the Matter of

STEED GENERAL CONTRACTORS, INC., and
IRENE KASELIS, CHRISTOPHER PAPASTEFANOU
A/K/A CHRIS PAPASTEFANOU and STEFANOS
PAPASTEFANOU, JR. A/K/A STEVE
PAPASTEFANOU, JR., as officers and/or shareholders
of STEED GENERAL CONTRACTORS, INC., and
DELPHI PAINTING & DECORATING CO., INC. a
substantially owned-affiliated entity of STEED
GENERAL CONTRACTORS, INC.

DEFAULT
REPORT
&
RECOMMENDATION

Prime Contractor,

and

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 known as
the Preventative Maintenance Bridge Painting for the
New York State Department of Transportation.

Prevailing Wage Rate
PRC No. 2008000929
Case ID: PW112008016753
Orange County

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To: Honorable Roberta Reardon
Commissioner of Labor
State of New York

Pursuant to a Notice of Hearing issued on December 11, 2018, a hearing was held on February 1, 2019 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 Steed General Contractors, Inc. ("Prime") complied with the requirements of Labor Law article 8 (§§ 220 *et seq.*) in the performance of a public work contract involving the Preventative Bridge

Painting Project located in various municipalities in the County of Orange, New York (“Project”) for the New York State Department of Transportation (“Department of Jurisdiction”).

HEARING OFFICER

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

APPEARANCES

The Bureau was represented by Department Counsel, Pico Ben-Amotz, (Larissa Bates, Senior Attorney, of Counsel)

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

FINDINGS AND CONCLUSIONS

On December 13, 2018, the Department duly served a copy of the Notice of Hearing on Prime and all necessary parties, via first-class mail and certified mail, return receipt requested (HO Ex. 2). The Department offered evidence that only the Department of Jurisdiction received the certified mailing. However, Department Counsel represented that the first-class mail envelopes sent to Irene Kaselis and Delphi Painting & Decorating Co., Inc. were not returned to the Department as undeliverable (T. 4, 7). In addition, on January 11, 2019 the Department personally served a copy of the Notice of Hearing on Prime and Delphi Painting & Decorating Co., Inc. by service on the New York State Department of State (HO Ex. 3). The Notice of Hearing scheduled a February 1, 2019 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 employees of Prime, 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 \$187,254.09 to its workers for the audit period weeks ending 08/13/2008 to 11/18/2009; and

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

Irene Kaselis is an officer of Prime; and

Christopher Papastefanou a/k/a Chris Papastefanou is an officer of Prime; and

Irene Kaselis is a shareholder of Prime who owned or controlled at least ten per centum of its outstanding stock; and

Christopher Papastefanou a/k/a Chris Papastefanou is a shareholder of Prime who owned or controlled at least ten per centum of its outstanding stock; and

Christopher Papastefanou a/k/a Chris Papastefanou knowingly participated in the violation of Labor Law article 8; and

By order of the Commissioner of Labor dated, October 9, 2007, Delphi Painting and Decorating Co., Inc. (“Delphi”) and any successor and substantially owner-affiliated entity, were debarred and, therefore, ineligible to bid on or be awarded any public work contracts with the State, any municipal corporation or public body for a period of five (5) years or until October 9, 2012 (DOL Ex. 22); and

By letter dated October 23, 2009, the Commissioner of Labor determined that Prime was a substantially owner-affiliated entity and/or successor of Delphi and was therefore debarred from bidding on or performing public work until October 9, 2012 (DOL Ex. 20). The work on the project was performed during the period of weeks ending 08/13/2008 to 11/18/2009; and

On February 12, 2010, the Department issued a Notice to Withhold Payment to the Department of Jurisdiction in the amount of \$147,562.23 (DOL Ex. 16). The New York State Comptroller has acknowledged that \$12,252.03 is being withheld as of October 11, 2018 (DOL Ex. 17).

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

RECOMMENDATIONS

Based upon the default of the 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 \$187,254.09 on Project PW112008016753, PRC No. 2008000929; 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 Prime is a substantially owned-affiliated entity and/or successor of Delphi; and

DETERMINE that Irene Kaselis is an officer of Prime; and

DETERMINE that Christopher Papastefanou a/k/a Chris Papastefanou is an officer of Prime; and

DETERMINE that Irene Kaselis is a shareholder of Prime who owned or controlled at least ten per centum of its outstanding stock; and

DETERMINE that Christopher Papastefanou a/k/a Chris Papastefanou is a shareholder of Prime who owned or controlled at least ten per centum of its outstanding stock; and

DETERMINE that Christopher Papastefanou a/k/a Chris Papastefanou 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 \$187,254.09, interest at 16% from date of underpayment and 25% civil penalty); and

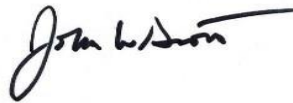
ORDER that Department of Jurisdiction remit payment of any withheld funds to the Commissioner of Labor, up to the amount directed by the Bureau consistent with its computation of the total amount due, by forwarding the same to the Bureau at: 120 Bloomingdale Road, Room 204, White Plains, NY 10605; and

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: May 29, 2019
Albany, New York

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Scott", with a long horizontal flourish extending to the right.

John Scott, Hearing Officer