

STATE OF NEW YORK: DEPARTMENT OF LABOR

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In the Matter of

The Matrukh Group, Inc., and Syed Muhammad S. Jafri a/k/a Shahrukh Jafri, and Akhlaq Oulakh, as officers and/or shareholders of Matrukh Group, Inc.,

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 in the Village of Ellenville, for the Office of General Services on behalf of the Department of Environmental Conservation.

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

Pursuant to a Notice of Hearing dated November 28, 2023, a videoconference hearing was held on February 12, 2024, in Albany, New York with participating parties and/or witnesses appearing remotely at various other locations. 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 The Matrukh Group, Inc, and Syed Muhammad S. Jafri a/k/a Shahrukh Jafri and Akhlaq Oulakh, as officers and/or shareholders of The Matrukh Group, Inc., (all as individually named or as "Respondents"), complied with the requirements of Article 8 of the Labor Law (§§ 220 et seq.) to pay or provide the prevailing rates of wages and supplements to laborers, workers or mechanics employed in the performance of a public work contract it was involved in. The matter involved a contract between Respondents and the New York State Office of General

DEFAULT REPORT &

RECOMMENDATION

Prevailing Wage Rate
PRC No. 2020000046
Case ID: PW012022000725
Ulster County

Services on behalf of the Department of Environmental Conservation (“Department of Jurisdiction”) to furnish materials, labor, tools and equipment necessary for the flood wall repairs in the Village of Ellenville, in Ulster County, in the State of New York under PRC #: 2020000046 (“Project”).

HEARING OFFICER

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

APPEARANCES

The Bureau was represented by Department General Counsel, Jill Archambault (Elina Matot, Senior Attorney, of Counsel).

There was no appearance made by, and on behalf of the Respondents.

Steven S. Katz, Esq., appeared for Capital Indemnity Corporation, the surety for the Respondents, but he did not participate in the hearing.

FINDINGS AND CONCLUSIONS

On November 29, 2023, the Department duly served a copy of the Notice of Hearing (Hearing Officer Ex. 1) on Respondents, via regular and certified mail, return receipt requested (Hearing Officer Ex. 2). The Notice of Hearing scheduled a hearing on February 12, 2024, and required the Respondents to serve an Answer at least fourteen days in advance of the scheduled hearing. All mailings were returned (T. pg. 5), and on January 22, 2024, the Department duly served the Notice of Hearing on The Matrukh Group, Inc., by personally serving the New York State Department of State (Hearing Officer Ex. 3).

Respondents failed to file an Answer to the charges contained in the Notice of Hearing or to appear at the hearing. Consequently, Respondents are in default in this proceeding.

The Notice of Hearing alleges that Respondents willfully failed to pay prevailing wages and supplemental benefits to its laborers, workers and mechanics employed in the performance of the public work contract with the Department of Jurisdiction during the said claim period.

Prior to the hearing, Capitol Indemnity Corporation, the surety for Respondents, made payment in the amount of \$23,559.61 on August 22, 2022, to the Department, which sum comprised the total underpayment of wages and supplements and reduced interest at 6% through August 22, 2022. (Dept. Exs. 13 and 14).

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

The Project was subject to Labor Law Article 8; and

The Matrukh Group, Inc. entered into a public work contract with the Department of Jurisdiction to provide the labor, material and/or services necessary to complete the Project under the terms of that agreement; and

Respondents failed to pay or provide the proper prevailing wages and supplemental benefits to its laborers, workers, and mechanics on the Project; and

Respondents willfully underpaid \$22,480.73 in wages and supplemental benefits to its workers for the audit period from week ending October 8, 2021 through week ending November 12, 2021; and

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

The Matrukh Group, Inc., is an incorporated business and Syed Muhammad S. Jafri a/k/a Shahrukh Jafri is the president and Akhlaq Oulakh is an officer (Dept. Exs. 5, 6, 8, 15, 16); and

Syed Muhammad S. Jafri a/k/a Shahrukh Jafri knowingly participated in the violation of Labor Law article 8, and this violation included the falsification of payroll records on the Project.

The Bureau used certified payrolls to determine the days and hours worked, and wage and supplement rates paid for each employee, and compared these rates with the prevailing wage schedule applicable in the county at issue for the rates that should have been paid, to ultimately determine the amount of unpaid prevailing wages and supplements due to the workers.

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

RECOMMENDATIONS

Based upon the default of Respondents 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, and based upon the weight of the evidence set forth in the record as a whole, I recommend that the Commissioner of Labor adopt the within findings of fact and conclusions of law, and make the following determinations and orders in connection with the issues raised in this case:

DETERMINE that Respondents, underpaid prevailing wages and supplemental benefits to its laborers, workers and mechanics in the amount of \$22,480.73 on the Project for the audit period weeks ending October 8, 2021, through week ending November 12, 2021; and

DETERMINE that Syed Muhammad S. Jafri a/k/a Shahrukh Jafri and Akhlaq Oulakh are officers of The Matrukh Group, Inc.; and

DETERMINE that Syed Muhammad S. Jafri a/k/a Shahrukh Jafri is an officer of The Matrukh Group, Inc. who knowingly participated in the violation of Labor Law Article 8 on the Project at issue; and

DETERMINE that the failure of Respondents to pay the prevailing wages and supplement rates on the Project was a "willful" violation of Labor Law Article 8; and

DETERMINE, that as a result of Respondents' knowing willful participation in the falsification of payroll records within the meaning of Section 220-b(3)(b) of the Labor Law on the Project, that both the entity (The Matrukh Group, Inc.) and Syed Muhammad S. Jafri a/k/a Shahrukh Jafri are ineligible to submit a bid on or be awarded any public work contract with the state, any municipal corporation or public body for a period of five years from the issuance of the Order & Determination associated with this report; and

DETERMINE that Respondents are responsible for any underpayment of wages or supplemental benefits determined to be owed on the Project; and

DETERMINE that based on the statutory factors set forth in Labor Law Article 8, Respondents are responsible for interest on the total underpayments on the Project at the statutorily mandated rate of 16% per annum from the date of underpayment to the date of payment; and

DETERMINE that based on the statutory factors set forth in Labor Law Article 8, Respondents are assessed a civil penalty in the amount of 25% of the underpayment and interest due on this Project; and

ORDER that the Bureau compute the total amount due (underpayment of \$22,480.73) with interest at 16% from date of underpayment to the date of payment and 25% civil penalty; and

ORDER that Respondents shall receive a credit for the \$23,559.61 paid by Capitol Indemnity Corporation, however, they are responsible for the balance due as recalculated by the Bureau in the prior Ordered paragraph; and

ORDER that the Respondents shall immediately remit payment of the total amount calculated by the Bureau to be due. The remittance should be made payable to the Commissioner of Labor, and sent to the Bureau at: Bureau of Public Work, New York State Department of Labor, Harriman State Office Campus, Building 12, 1st Floor, Room 130, Albany, New York 12226; and

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

Dated: October 10, 2024
Albany, New York

Respectfully submitted,



John W. Scott, Hearing Officer