

Prevailing News - NYC

A Publication of the Bureau of Labor Law
about Prevailing Wage and Living Wage Enforcement

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From the Desk of Comptroller William C. Thompson, Jr.

I am pleased to report to you that in 2006, my Bureau of Labor Law collected more than \$5 million in back wages for workers who were underpaid by New York City contractors. The \$5,002,082 in just one year's time is by far the most collected for prevailing wage violations in the last decade and is one of the highest amounts collected in the history of any Comptroller's administration.


We also had other significant achievements in 2006:

- We assessed \$414,950 in penalties against contractors who violated the labor laws, the highest amount since I took office.
- In the John C. Mandel Security Company case (see below), we secured the biggest settlement ever in the history of the Comptroller's office in terms of the number of workers (720) to be paid back wages because of prevailing wage violations.

Over the last five years, we resolved 744 prevailing and living wage cases, assessed \$11,376,761 in underpayments for workers and assessed more than \$1,105,495 in fines against contractors. Since taking office, I have also debarred 20 contractors from doing business with the City as a result of labor law violations.

Prevailing and living wage laws are about supporting hard-working people and creating a better New York for all of us. I am proud of our efforts in enforcing these laws and the progress we have made helping working New Yorkers get the wages and benefits they deserve.

If you have comments or questions, or wish to be placed on our electronic mailing list, please contact Jeffrey Elmer, Assistant Comptroller, Bureau of Labor Law, at (212) 669-3622 or jelmer@comptroller.nyc.gov.



Comptroller Thompson Secures \$829,738 from Security Firm Which Shortchanged 720 Guards Largest Prevailing Wage Settlement Ever in Building Services Industry

Security guards employed by private companies safeguard some of the most important buildings in the City of New York. Yet, these men and women often struggle to make ends meet, receiving low salaries and few benefits. Guards working for municipal contractors in City-owned buildings are entitled to the legal wage set by the Comptroller. At present, the prevailing wage for unarmed security guards is \$10 per hour,

plus \$1.50 an hour for health/ supplemental benefits.

Recently, the John C. Mandel Security Company agreed to an historic settlement with the Comptroller. The firm agreed to pay \$754,307 to 720 unarmed security guards it employed in 2004, to compensate them for supplemental health benefits not provided by Mandel as required by law.



WILLIAM C. THOMPSON, JR.
COMPTROLLER
CITY OF NEW YORK



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Comptroller Thompson Secures \$829,738 from Security Firm Which Shortchanged 720 Guards *Largest Wage Settlement Ever in Building Services Industry*

Mandel also paid a fine of \$75,430 for violating the labor law. The security guards worked for Mandel under a contract the company had with the NYC Human Resources Administration (HRA). HRA had referred this case to the Comptroller for investigation.

This is the largest building services prevailing wage case that the Comptroller's Office has ever settled under Section 230 of the Labor Law.

Mandel also accepted a willful violation of Labor Law 230 as part of a stipulation with the Comptroller. If the company receives a second violation, it will be ineligible to bid for or receive a government contract in New York State for five years.

Integrity Construction Cheats Workers & Is Debarred from Government Work

HPD Construction Manager Must Pay Fine, Back Wages

INTEGRITY
CONSTRUCTION
IS NOW DEBARRED
FROM NEW YORK
GOVERNMENT WORK
FOR FIVE YEARS

Comptroller William C. Thompson, Jr. recently debarred Integrity Construction & Consulting Services from doing business with the City and State after it failed to pay seven workers almost \$280,000 in prevailing wages and benefits for work it performed on a New York City Department of Housing Preservation and Development (HPD) project.

As part of its Tenant Interim Lease program, HPD contracted with Melcara Corporation to serve as construction manager for repairs and renovations at 536-38 West 163rd Street in Manhattan. Melcara hired Integrity Construction to act as general contractor on the project. Integrity, however, failed to pay the workers the legally required wages and benefits for work they performed from October 2003 to July 2004.

After conducting an investigation, the Comptroller's Bureau of Labor Law commenced a proceeding before the City's Office of Administrative Trials and Hearings (OATH). The OATH trial was based, in part, on excellent investigative work performed by HPD's Labor Standards Unit. As a result, an Administrative Law Judge (ALJ) determined that Integrity Construction underpaid four carpenters, two laborers and one bricklayer.

The ALJ also found that Integrity Construction falsified its certified payroll reports by understating the number of hours its employees worked and reporting payments for supplemental benefits not made. The two laborers, for example, received only \$10 an hour in wages with no benefits and the three carpenters were paid \$20 an hour with no benefits, despite the fact that during construction the prevailing wage for laborers was \$28.05 an hour and \$15.19 an hour in supplemental benefits and for carpenters, \$38.78 an hour in wages and \$26.31 in benefits.

Integrity Construction further concealed its violation by omitting from its payroll records two laborers who assisted in the demolition and removal of materials and the carrying of supplies.

In his report to the Comptroller, the ALJ found that Integrity Construction had underpaid workers by a total of \$189,633.22, with as much as \$47,763.96 due to one carpenter.

The Comptroller's Office accepted the ALJ's report and, due to its willful underpayment of workers and submission of false payroll records, Integrity Construction is now ineligible to bid for or receive a government contract in New York State for five years.

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Integrity Construction was also assessed a civil penalty of \$69,927.05, which represents 25% of the total violation.

The ALJ held Melcara financially responsible for the underpayment, interest, and civil penalty assessed Integrity Construction because, as the construction manager on the project, Melcara assumed responsibility for ensuring that Integrity complied with the labor laws. Holding construction managers such as Melcara financially responsible for non-compliant contractors confirms an important legal precedent in enforcement of the labor law.

Home Attendants Receive \$4 Million in Living Wage Back Pay

In 2005, representatives from SEIU Local 1199 asked Comptroller Thompson to investigate allegations that Prestige Home Attendants/All Season Home Care was not paying the mandated living wages and benefits due its workers. Prestige/All Season has contracts with the New York City Human Resources Administration (HRA) to provide home attendant services to homebound clients.

Once the case began, the Comptroller's Labor Law attorneys engaged in settlement discussions with this company. As a result of these negotiations and, in an effort to avoid legal proceedings, Prestige/All Season agreed in 2006 that they were obligated to pay their home attendants the wages and benefits owed pursuant to Section 6-109 of the City's Administrative Code.

After receiving authorization from HRA, the company sent checks directly to its past and present employees who worked on HRA contracts and who had not previously received either health benefits or a health supplement of \$1.50 per hour since the effective date of the living wage law (April 17, 2003). The retroactive health benefits that the company paid its workers came to nearly \$4.1 million. Prestige/All Season also sent checks to employees working on HRA contracts for retroactive wages owed, due to the increases mandated in the living wage law.

NYCHA Contractors Face Jail Time for Stealing Workers Wages

New York State Attorney General Andrew M. Cuomo and New York City Department of Investigation Commissioner Rose Gill Hearn announced in January that three construction contractors pled guilty to charges that they failed to pay over 400 workers more than \$6.5 million in back wages on New York City Housing Authority (NYCHA) contracts.

Between 2000 and 2004, SNA General Construction Corp. and 4-A General Construction Corp. underpaid workers renovating kitchens and bathrooms on NYCHA housing projects. The principals of these companies entered guilty pleas to Grand Larceny in the Third Degree, a Class D felony, and Failure to Pay Wages in Accordance with the State Labor Law, a Class A misdemeanor. One of the principals faces possible prison time at his sentencing this coming July. Additional defendants from SNA pleaded guilty to Offering a False Instrument for Filing in the First Degree, a Class E felony, as part of the scheme to defraud the workers.

The principals of these companies will pay fines and make full restitution with interest to the workers. As well, they are prohibited from performing any public work with the City or State for the next five years.

The investigation into this scheme was spearheaded by the AG's Office and the NYCHA Inspector General's Office, with assistance from the New York City and Vicinity Carpenters Labor-Management Corporation and the Greater New York Laborers-Employers Cooperation and Education Trust.

HOLDING CONSTRUCTION
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AN IMPORTANT LEGAL
PRECEDENT IN
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THE LABOR LAW



Nine Parks Contractors Busted for Bribery

In March, nine contractors who allegedly failed to pay their workers prevailing wages on New York City park construction projects were arrested. They were charged with bribery in the third degree, punishable by up to 7 years in prison.

The contractors were accused of paying a total of \$18,500 in bribes to an undercover investigator so that the City would overlook the underpayments to their

workers, according to the Department of Investigation (DOI). At least 25 employees who worked for the various contractors were paid \$10-\$11 an hour, far less than the legally mandated wages.

The investigation was conducted by DOI's Inspector General's Office for the Department of Parks & Recreation, with cooperation from the Queens County District Attorney, the Parks Department and the NYPD.

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Patricia Smith Is Named NYS Labor Commissioner

Governor Eliot Spitzer has selected Patricia Smith to be Commissioner of the NYS Department of Labor. The Governor made Ms. Smith one of his first commissioner-level appointments, showcasing the importance his administration is putting on the position.

Comptroller Thompson has invited Ms. Smith to be the speaker at the next meeting of the Prevailing Wage Council on May 10, 2007.

Ms. Smith headed the New York State Attorney General's Labor Bureau from 1999 until her appointment as Labor Commissioner. She joined the AG's office in 1987. She has a long track record of commitment to enforcing the labor law. In

an interview, she said the criminal prosecutions that her Bureau brought against employers in prevailing wage cases were often a "very effective" enforcement tool. Her nomination was cheered by union leaders and worker advocates.

At Ms. Smith's request, Christopher Alund will continue his excellent work as the director of the Labor Department's Bureau of Public Works, which enforces the State's prevailing wage laws.

NYS Attorney General Andrew Cuomo has named Jennifer S. Brand to lead the AG's Labor Bureau.

Comptroller William C. Thompson, Jr.

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