

**COMMONWEALTH
OF MASSACHUSETTS**

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Department of
Unemployment Assistance

Department of
Industrial Accidents

Fair Labor Division,
Massachusetts Attorney
General's Office

Department of Revenue

Department of Labor Standards

Division of Capital
Asset Management

Alcoholic Beverages
Control Commission

Division of Professional Licensure

Department of Public Safety

Massachusetts Commission
Against Discrimination

Division of Banks

Massachusetts Office of Refugees
and Immigrants

Office of Small Business
and Entrepreneurship

Supplier Diversity Office

Insurance Fraud Bureau (Partner)

Recent Media Coverage of Activities by the the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification

1-877-96-LABOR
www.mass.gov/lwd/jtf

The Boston Globe Business

Patrick-Murray Administration and Attorney General Martha Coakley Bring Enforcement Actions Against Contractors on Pulte Homes Construction Sites

Subcontractors Under National Developer, Pulte Homes, Come Under Scrutiny in Massachusetts for Wage Violations, Unemployment Insurance Violations, and Worker Misclassification

Boston, MA – January 18, 2012 – Subcontractors working at Pulte Homes sites in eastern Massachusetts have been ordered to pay more than \$400,000 in unpaid wages and penalties, and more than \$141,000 has been recovered in previously outstanding revenue for Massachusetts’ unemployment system.

The enforcement action is the result of investigations by Attorney General Martha Coakley’s Office (AGO), the Executive Office of Labor and Workforce Development (EOLWD), and the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification (JTF). The JTF was established by Governor Deval Patrick through Executive Order #499 in March 2008 to coordinate multiple state agencies’ efforts to stamp out fraudulent employment activities by enforcing the state’s labor, licensing, and tax laws.

“All workers in the Commonwealth deserve to be paid for the wages they have earned, including their overtime,” said Attorney General Coakley. “We will continue to work together and take appropriate action to stop these unlawful business practices, level the playing field for companies and protect workers.”

“The Commonwealth is committed to insuring that all businesses carry both workers’ compensation and unemployment insurance coverage,” said Secretary of Labor and Workforce Development Joanne F. Goldstein. “We will not tolerate employers or developers who proceed without this coverage, which puts employees at risk and employers who play by the rules at a competitive disadvantage. The Joint Task Force will continue to take all necessary action to protect legitimate employers, employees and the taxpayers of the Commonwealth.”

“The Joint Task Force continues to strengthen cross-agency enforcement methods in the field to fight underground economy activity such as this,” said JTF Director Drew Cahill.

Earlier this year, the Attorney General’s Office and the JTF received wage and hour complaints against multiple subcontractors working at sites operated by Pulte Homes. The workers alleged that they were not paid for overtime and not paid for all hours worked. Workers were often paid in cash and by checks that bounced.

As a result of the AG’s investigations, five employers were ordered to pay back a total of \$409,777.75 in unpaid wages and penalties. Those penalties were for the failure to pay wages and overtime, failure to issue suitable pay stubs, failure to furnish records for inspection, and misclassification of workers as independent contractors.

The AG’s investigations resulted in the following findings and action:

- AM Construction Services and its President, Adimar Demoura, age 32 of Framingham, allegedly failed to pay four workers a total of \$15,331.50 for framing work done on private residential projects in Braintree and Plymouth. They were also fined \$22,500 in penalties.
- Five Stars Construction and its President, Alexandre Miranda, age 40 of Trumbull, Connecticut, allegedly failed to pay two workers a total of \$30,700 for framing work done on a private condominium project in Natick. They were also fined \$30,000 in penalties.
- Nunes Brothers Construction and its President, Tiago Aguiar M. Nunes, age 28 of Brooklyn, New York, allegedly failed to pay 23 workers a total of \$99,086.75 for framing work done on private condominium and single-family homes projects in Braintree, Plymouth, Natick, and Northbridge. They were also fined \$112,500 in penalties.
- Seven Seas Group and its President, Jackson Croscup, age 55 of Fall River, allegedly failed to pay five workers a total of \$10,333 for framing work done on a private condominium project in Natick. They were also fined \$20,075 in penalties.
- Two Brothers Construction and its President, Wellington DeLima Borges, age 41 of East Natick, allegedly failed to pay six workers a total of \$34,751.50 for framing work done on a private home development project in Plymouth. They were also fined \$34,500 in penalties.

As part of their role with the JTF, investigators with EOLWD’s Departments of Unemployment Assistance (DUA) and Industrial Accidents (DIA) also inspected construction sites in Northbridge,

Braintree and Natick between late May and early June 2011. The sites are owned and operated by Pulte Homes of New England Limited Liability Corporation and Pulte Braintree Limited Liability Corporation.

Upon review of records and statements made on-site, DUA investigators determined that six companies at the three Pulte sites had committed violations of failure to register with DUA, failure to pay unemployment taxes, and employee misclassification, resulting in the following findings:

- A company working at the Northbridge Pulte site owed \$80,768 in unpaid unemployment taxes to DUA.
- A company working at the Braintree Pulte site owed \$28,098 in unpaid unemployment taxes to DUA.
- Four companies at the Natick Pulte site owed \$35,692 in unpaid unemployment taxes to DUA. One of the companies misclassified 28 employees as independent contractors over a four-year period.

Unemployment Insurance tax is a tax on employer payrolls paid by employers and used to provide funds from which unemployment benefits are paid to qualified unemployed workers. State unemployment tax is not deducted from employee wages.

The JTF is a broad coalition of state agencies including, among others, the Attorney General’s Office, EOLWD’s Departments of Industrial Accidents and Unemployment Assistance, and the state’s Department of Revenue. These agencies work together to protect workers and restore competitive equality for Massachusetts’ businesses. Although the large majority of Massachusetts employers conduct business with integrity, unscrupulous offenders are a serious threat to consumers, workers, tax revenues, legitimate businesses, and the economic well-being of the Commonwealth.

Workers who believe that their rights have been violated are strongly urged to call the Attorney General’s Fair Labor Hotline at (617) 727-3465, or the Joint Task Force Referral Line at (877) 965-2267, or visit the Joint Task Force website at <http://www.mass.gov/lwd/eolwd/jtf/> to submit a complaint via email. More information about the wage and hour laws is also available in multiple languages at the Attorney General’s Workplace Rights website at www.massworkrights.com.

The Boston Globe **Business**

State fines Pulte Homes contractors in pay case

By Casey Ross | GLOBE STAFF JANUARY 19, 2012

Construction contractors working at Pulte Homes development sites were hit with more than \$540,000 in fines and penalties yesterday for allegedly failing to pay dozens of employees.

The enforcement action was one of the largest in recent history focusing on the projects of a single home builder. Attorney General Martha Coakley's office said that the laborers at the Pulte sites, many Brazilian immigrants, were not paid regular wages or overtime for several weeks of work by five subcontractors. Back wages totaled more than \$190,000.

Also, the state's Office of Labor and Workforce Development found that six subcontractors for Pulte failed to pay unemployment taxes and misclassified workers as independent contractors - a maneuver officials said is often used to conceal fraudulent practices. The agency did not name the subcontractors in that action.

Among the nation's largest home builders, Pulte Homes itself was not held liable for the alleged violations because it was not the direct employer of the workers.

"In this case, we charged all the companies we could reach," said Joanne Goldstein, secretary of labor and workforce development. "It is frustrating that companies are insulated from liability but get the benefit of the misclassification or wage and hour violations."

In a statement yesterday, Pulte Homes' parent company said it supports the state's effort to enforce wage laws. "We fully expect that our contractors will pay their employees according to all state and local guidelines, and have such requirements within our vendor agreements," the statement said.

The alleged violations occurred last year in Plymouth, Braintree, Natick, and Northbridge. Investigators said the subcontractors in question framed homes and condominiums for Pulte.

"All workers in the Commonwealth deserve to be paid for the wages they have earned, including their overtime," Coakley said yesterday.

The investigation was coordinated by the state's Joint Task Force on the Underground Economy and Employee Misclassification, an entity created by the Patrick administration in 2008 to uncover fraudulent employment practices.

The fined contractors include:

- Nunes Brothers Construction and its president, Tiago Aguiar M. Nunes, 28, of Brooklyn, N.Y., were ordered to pay 23 workers \$99,086.75 and fined \$112,500.
- AM Construction Services and its president, Adimar Demoura, 32, of Framingham, were ordered to pay four workers \$15,331.50 and fined \$22,500.
- Five Stars Construction and its president, Alexandre Miranda, 40, of Trumbull, Conn., were ordered to pay two workers \$30,700 and fined \$30,000.
- Seven Seas Group and its president, Jackson Croscup, 55, of Fall River, were ordered to pay five workers \$10,333 and fined \$20,075.
- Two Brothers Construction and its president, Wellington DeLima Borges, 41, of Natick, were ordered to pay six workers \$34,751.50 and fined \$34,500.

Attempts to reach the companies were unsuccessful yesterday.

Casey Ross can be reached at cross@globe.com.

The Boston Globe **Business**

State investigates use of Pa. shelter workers Hired for project at Copley Marriott

By Casey Ross | GLOBE STAFF | January 20, 2012

Contractors using laborers from a Philadelphia church shelter to renovate Boston's Marriott Copley Place hotel are under investigation by state authorities for potential violations of wage laws and other worker protections, according to people briefed on the matter.

Attorney General Martha Coakley is investigating whether workers from Victory Outreach International, a church that provides shelter and rehabilitation services to people with drug and alcohol problems, were brought into the state to be used as cheap labor for the renovation project, according to those familiar with the case.

State authorities - Coakley's office among them - are trying to crack down on illegal labor practices in construction and other industries. In February, a new human trafficking law will take effect that calls for up to 20 years in prison for people found guilty of importing workers into the state for illegal purposes.

A Victory Outreach pastor in Philadelphia, Joseph Bishop, said his church's laborers were interviewed by Massachusetts investigators Wednesday about their working conditions at the Marriott, which is among the city's largest luxury hotels, with 1,100 rooms.

Bishop did not know how much the laborers were being paid but said the church has sent multiple groups of workers from its shelter in Philadelphia to the Boston Marriott.

“Officials are looking for violations of wage laws and other worker protections.”

Based near San Diego, Victory Outreach is an evangelical church with more than 700 churches and centers in the United States and abroad. On its website, the church describes itself as a Christian organization “called to the task of evangelizing and discipling the hurting people of the world,” according to its website, and it also provides shelter,

rehabilitation services, and employment opportunities to members struggling with substance abuse, poverty, and other issues.

Bishop said Victory Outreach has 20- to 30-year relationships with construction firms to provide work for church members. He believes the firm using its church members at the Boston Marriott is Installation Plus of Corona, Calif., where Victory Outreach also has a branch. His church is not paid for supplying workers, Bishop said.

Installation Plus is a subcontractor handling the removal and installation of furniture at the Marriott. Its owner, George Herrera, referred questions to the main contractor on the Boston job - Baystate Services Inc. of Woburn. That firm's chief executive, Jeff Snyder, acknowledged that Victory Outreach workers were being employed on the site, but he said he did not know anything about their pay or working conditions.

“I’m not sure how they are being compensated,” Snyder said. He said he has not talked to Installation Plus about the workers.

The Marriott Copley Place is owned by Host Hotels & Resorts Inc., a national hospitality company that owns 121 luxury hotels across the United States and abroad.

A spokeswoman for Host said the company knows that Victory Outreach workers are employed at the Boston hotel but stressed that the contract for the renovation work requires “Bay State and any subcontractor it hires to comply with all laws, including any applicable wage and hour laws.”

A spokesman for Coakley's office said it does not confirm or deny the existence of investigations as a matter of policy. But several officials briefed on the investigation said authorities are investigating whether subcontractors are circumventing state labor laws, paying the workers less than the \$8-an-hour minimum wage, for example, or under the table, or not paying mandatory unemployment insurance taxes. The sources asked for anonymity because the investigation is ongoing.

Meanwhile, Joanne Goldstein, state secretary of labor and workforce development, said her office has recommended that a special state task

force that investigates complaints of worker exploitation look into the conditions at the Marriott.

The Copley Marriott renovation has previously had labor problems. The state Department of Industrial Accidents issued temporary stop work orders late last year to three firms on the project, including Installation Plus, and fined them for failing to provide proper worker's compensation insurance.

Installation Plus, which in November reported having 14 employees on the project, paid a \$6,750 fine on Dec. 6, according to state records. Two other subcontractors - Jayson Connor, a flooring business based in Marshfield, and RB Wallcovering Inc. of Jacksonville, Fla. - paid fines of \$500 and \$700, respectively.

Snyder, of Bay State Services, said the subcontractors had workers' compensation insurance when they began work on the Copley Marriott, but were unaware of insurance requirements specific to Massachusetts.

“They were informed of it, they produced the required documentation, and it was all accepted,” Snyder said.

Local labor unions have also been picketing outside the hotel, protesting the use of nonunion labor.

“Our concern is that Host Hotels is trying to take advantage of the recession by bringing in out-of-state laborers to do work that has traditionally been done by local union tradespeople,” said Mark Erlich, president of the New England Regional Council of Carpenters.

Victory Outreach was founded in East Los Angeles 1967 by Sonny and Julie Arguinzi, specializing in what it calls, “transformational ministry.” Its closest church is in Bridgeport, Conn. It has branches outside the United States in countries from Mexico to the Netherlands to New Zealand.

Victory Outreach is known for a boot-camp-like regimen at rehabilitation homes, where it preaches redemption through sacrifice and obedience. The church came under scrutiny in the 1990s by California regulators who found that many of its shelters in that state were kept in poor condition and failed fire inspections.

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The Boston Globe Business

A bigger bill for labor abuses

State collects \$11m in fines, taxes for 2011; Enforcement efforts increased, report says

By Casey Ross | GLOBE STAFF | APRIL 19, 2012

Massachusetts investigators nearly doubled the amount of money collected last year from employers caught violating the state's minimum wage and tax laws, reflecting exploitation of workers in a range of industries, according to a new report.

The state's task force on the so-called underground economy recovered nearly \$11 million in fines, back taxes, and unpaid wages from employers in 2011, up from \$6.5 million in 2010 and \$1.4 million in 2009.

The sharp increase, recorded in the task force's annual report to be released Thursday, offers a window into widespread efforts to subvert wage and tax laws in the difficult economy. It also highlights stronger enforcement by the task force, which was created by Governor Deval Patrick in 2008 to investigate complaints of worker exploitation.

Officials in charge of the task force said its enforcement focused on a variety of industries including construction, auto sales, food service, and hospitality. Employers were found to be paying substandard wages, failing to maintain workers' compensation insurance, and failing to pay income and unemployment taxes.

"There seems a strong appeal among some employers to taking advantage of their workers," said Joanne Goldstein, the state's secretary of Labor and Workforce Development. "But I think there's been a shift in how employers perceive the seriousness of the enforcement action we can take against them."

The task force, which consists of 15 state agencies that regulate employment, conducted thousands of inspections

and audits last year following complaints of abuses by employers. In its annual report, to be posted online at www.mass.gov/lwd/jtf, the task force said the money it collected included more than \$3.6 million in overdue taxes and issued more than \$2.1 million in fines against companies without workers' compensation insurance. The attorney general's office, working alongside the task force, recovered another \$3 million in penalties and fines for wage violations.

Even with the stepped-up enforcement, officials acknowledged that such violations are pervasive in the economy, with some employers continually taking advantage of low-wage workers and deliberately ducking tax obligations. The cases last year involved victims from a range of backgrounds; some were undocumented immigrants, many others were citizens.

One of the largest enforcement actions last year focused on construction sites managed by Pulte Homes, a national builder. Contractors working on several of its properties were hit with \$540,000 in fines for allegedly failing to pay wages to dozens of employees, many of them Brazilian immigrants. Pulte Homes itself was not held liable for the alleged violations because it did not directly employ the workers involved.

Another large case resulted in \$500,000 in fines against Labor Solutions Inc., a temporary employment company in Worcester that provides workers for manufacturing plants. The company and its owner, Tam Vuong, pleaded guilty to 65 counts of violating state wage and hours laws, including failure to pay minimum wage and failing to pay overtime.

In addition to exploiting workers, such abuses have far-reaching effects in the state's economy. In many industries, legitimate businesses struggle to compete against

companies that provide services at lower costs by avoiding taxes and refusing to pay fair wages and other costs.

"There's just no way that a company playing by the rules can compete with someone who is carrying no overhead or any other expenses related to taxes or proper protections for their employees," said Greg Beeman, president of the Massachusetts chapter of Associated Builders and Contractors Inc., which represents nonunion contractors. He said contractors are increasingly facing competition from out-of-state firms that are importing people into the state for use as cheap labor.

Earlier this year, a new state human trafficking law took effect that increases penalties on such practices. People found guilty of importing workers into the state for illegal purposes could now face up to 20 years in prison.

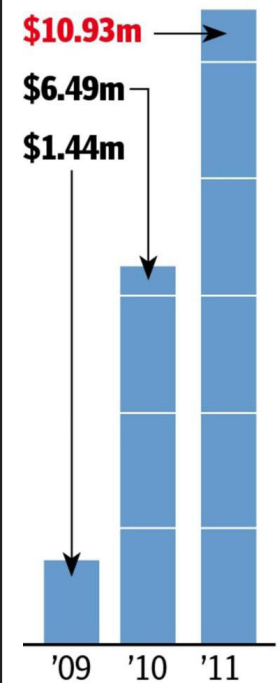
Officials with the task force said the state is launching a new study this year to measure the effect of illegal employment on the state's economy. The state's Department of Revenue will be leading the effort, using information from previous cases and other data to estimate the impact within specific industries.

Drew Cahill, director of the task force, said the study will help guide enforcement efforts and provide a clearer picture of where the abuses are happening and how they are affecting other companies and ordinary citizens.

"The average taxpayer is being taken advantage of, too," he said. "It's an issue of basic fairness: Most people are going to work every day and paying their share in taxes, and they are forced to shoulder a larger burden because of these other businesses that aren't doing the same."

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Fines, unpaid wages, and overdue taxes collected from employers caught violating state labor laws.



SOURCE: Joint Task Force on the Underground Economy

The Boston Globe **Business**

Workers will get \$31k in back pay

Hotel project ignored wage law

By Casey Ross | GLOBE STAFF JULY 19, 2012

A Woburn construction company will pay \$31,000 in back wages after Massachusetts' attorney general found that one of its subcontractors failed to pay the state-required minimum wage to laborers from a Philadelphia church who were hired to renovate the Boston Marriott Copley Place.

The company, Baystate Services Inc., agreed to pay the money to 37 men from Victory Outreach Church, an evangelical ministry that specializes in rehabilitating people struggling with substance abuse. The church often arranges for its members to perform labor as part of its recovery program.

The men were hired by a subcontractor, Installations Plus, which arranged for them to come to Boston in November to remove and install furniture as part of the \$4 million renovation of the Marriott hotel's 1,100 rooms.

Attorney General Martha Coakley's office determined the men were paid \$4 an hour — half of the state's minimum wage — during nearly three months of work at the Back Bay hotel.

"Employers are required to pay employees a fair wage for a day's work," Coakley said in a statement Wednesday. "We enforce these laws not only to protect workers, but to level the playing field for all businesses who play by the rules."

The matter remains under investigation by a state task force on the underground economy, which is probing whether contractors also violated requirements to pay unemployment taxes and workers' compensation insurance.

The Boston Marriott Copley Place is owned by Host Hotels & Resorts Inc., a publicly traded company that owns dozens of luxury hotels nationwide. The company hired Baystate to renovate the guest rooms, but it said it was unaware that men from Victory Outreach were being paid so little.

"As soon as we learned of these concerns, we acted quickly and aggressively to gather information and to make it clear to all the parties involved that we will not tolerate violations of the law on any Host project," the company said in a statement.

A lawyer for Baystate Services said yesterday that it regrets that Installations Plus did not pay its workers according to the law.

"Baystate never intended for that to happen, and the company has done what it thinks is the right thing to do for the workers and to preserve its relationship with the owner, Host Hotels," said the lawyer, Tom Elkind.

Coakley's office said Baystate cooperated with the investigation, which began in January when State Police

raided the Marriott and found that the men were working for substandard wages.

Installations Plus is a furniture installer based in Southern California.

Coakley said Installations Plus contracted with Victory Outreach to provide workers to move furniture in and out of the hotel rooms. The company's owner, George A. Herrera, did not return a phone call on Wednesday seeking comment.

Victory Outreach, also based in Southern California, operates hundreds of churches and substance abuse recovery homes in inner-city neighborhoods across the United States. It also has dozens of international branches in places like Venezuela, Ireland, and the Philippines.

Its mission is to convert and rehabilitate drug addicts and former gang members through a regimen of Bible study and work. The pastor of the Victory Outreach church in Philadelphia, Joseph Bishop, said the Marriott job provided much-needed employment to church members.

"We're just a church trying to help people," Bishop said. "We don't know anything about labor laws."

The attorney general's office said that Victory Outreach reported it received no compensation for arranging employment for its members and had insufficient funds to pay back wages.

The Boston Globe Of hope, and a lopsided deal

A national ministry for addicts has a record of success, but its work program leaves some vulnerable men feeling misused



SCOTT LEWIS FOR THE BOSTON GLOBE

‘FOR WHAT WE GOT PAID, THAT JOB WAS CRAZY.’

JESSE CARTER, who worked on the renovation of the Copley Place Marriott



SCOTT LARIBI FOR THE BOSTON GLOBE

Men from Victory Outreach Church in Philadelphia helped renovate the Marriott Copley Plaza in Boston.

By Casey Ross GLOBE STAFF Aug 26, 2012
Jesse Carter's first job out of homelessness and a crack cocaine addiction took him on an improbable journey, from a Philadelphia ghetto to the top floors of Boston's Marriott Copley Plaza, where he worked on an \$18 million renovation of the towering Back Bay hotel.

Arranged by his church, a Christian drug rehabilitation ministry called Victory Outreach, the job offered Carter hope of a steady wage and a fresh start. But inside the Marriott his optimism quickly faded, displaced by unshakable fatigue and pain from the daily demands of the work. He said he was moving furniture 12 hours a day, six days a week — part of a crew from Victory Outreach working around the clock last winter to remodel the hotel's 1,100 guest rooms.

At night, Carter and 11 other laborers packed into a pair of two-bedroom apartments in Chelsea provided by the contractors. His pay for nearly three months of labor worked out to about \$4 an hour, half the required minimum wage in Massachusetts.

"For what we got paid," Carter said, "that job was crazy."

In searching for a foothold out of poverty, the 50 year old got swept into a little-known corner of America's underground economy. His job at the Marriott was not an isolated arrangement, but one of many hotel projects that have employed, on short wages, impoverished men affiliated with Victory Outreach, an international evangelical church that operates recovery homes for addicts and former gang members in some of America's poorest neighborhoods.

Using church labor has allowed a southern California furniture installer to cut costs on the renovation of hotels from Anaheim, Calif., to Boston, where his company has won jobs moving furniture at properties operated under brands such as Embassy Suites, Marriott, and Disney.

The firm, Installations Plus, pays Victory Outreach a fraction of its revenue for each hotel job for supplying the labor, and then appears to keep much of the remainder. The company's owner, George A. Herrera, defended his use of the church-supplied labor. He said he pays Victory Outreach a lump sum — typically tens of thousands of dollars — and suggested it is the church's responsibility to ensure the men are adequately paid.

"I don't know what the church pays the guys or what it promises them," said Herrera, who runs his national business with no commercial office space or clerical staff, relying on a cellphone to handle day-to-day operations.

Victory Outreach administrators said the church uses its partnership with Herrera and other business owners to raise money for its ministry, which includes more than 700 churches and recovery homes around the globe. The church was founded in 1967 by pastor Sonny Arguinizoni, a former heroin addict and petty criminal who professed a vision to reach out to disenfranchised people with nowhere else to turn.

New members receive daily religious instruction and are eventually asked to perform jobs such as washing cars,

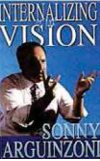
landscaping, or moving furniture. The men, some of whom credit the church with rescuing them from their addictions, are paid little or nothing, with the money they earn instead going to Victory Outreach to pay for their care.

"Part of our mission is to restore a positive work ethic," said Philip La Crue, the church's executive director. "We've been doing this for over 40 years. We've talked to judges and mayors about it — no one has a problem with it."

Victory Outreach portrays the arrangement as volunteer labor, and said few of its members object to the lighter tasks. But heavy labor, like the Marriott job, is another thing.

"\$40 a day is slave wages," said Matt Dixon, a member of the crew at the Copley Place hotel.

Carlos Garcia, another Victory Outreach member who



Victory Outreach Church was founded in 1967 by pastor Sonny Arguinizoni, a former heroin addict and petty criminal who professed a vision to reach out to people with nowhere else to turn.

worked under Herrera at Southern California hotels between 2002 and 2004, said he does not blame Victory Outreach, but he questions the motives of Herrera and his company. "They knew we were guys in recovery," said Garcia. "And they knew they could take advantage of that."

The arrangement at the Copley Place Marriott sparked an investigation by Massachusetts authorities. Attorney General Martha Coakley found last month that contractors failed to pay minimum wage to 37 Victory Outreach workers who together were owed more than \$31,000 for their work in the hotel.

Still, no one was charged in the case.

Baystate Services Inc., the Woburn-based general contractor in charge of the work, agreed to pay the back wages owed to the men, but did not admit any wrongdoing.

Host Hotels & Resorts Inc., which benefited with newly renovated hotel rooms, said it did not know of the problems until authorities began investigating and did not face punishment.

Herrera and Victory Outreach have not paid any of the back wages or faced penalties. Herrera has cut off communication with investigators, while Victory Outreach said it did not have any money to pay the men. Under state law, only direct employers can be held accountable for wage violations.

"It's a real problem," said Joanne Goldstein, secretary of the state Labor Department, which is still investigating the Marriott renovation. "The weakness in the law often insulates companies from liability."



SCOTT LARIBI FOR THE BOSTON GLOBE

Jessie Carter and Eric Diggs walked through their North Philadelphia neighborhood. The men say they were paid little for their work in Boston.

Division of labor

Victory Outreach pastors often compare their recovery homes to boot camps where drug addicts and gang members face a stark choice: They can study the Bible and devote their daily lives to the ministry, or they can go back on the streets.

The rehabilitation program is free and, because it is affiliated with a religious organization, not funded or regulated by public authorities, although it often receives referrals of new residents from state probation departments in California, Pennsylvania, and elsewhere. Many of the homes are run by former addicts who graduated from the program and now preach its blend of strict discipline and loyalty to the church.

"What they essentially say to men in the rehab homes is, 'We took you out of a much worse place, so you're working for us now,'" said Arlene Sanchez Walsh, a theology professor at Southern Methodist University's Perkins School who wrote a book on Victory Outreach.

Showing their devotion invariably involves work, though the church does not view it that way.

"We really don't call it work; we call it fund-raising," said La Crue, who works out of a small headquarters office in San Dimas, Calif. He added that the church's primary goal is to help the men build their relationships with God. Part of that, he said, is keeping them removed from temptations that could trigger a drug-buying relapse.

"The people that we reach," La Crue said, "it's not good for them to have a lot of money."

The church preaches that money will come in time, through hard work and devotion to God and the church.

Arguinizoni, its founder, is a perfect example of that hard road up.

He was a recovering heroin addict when he founded Victory Outreach in his East Los Angeles home in 1967. Since starting the church, he and his wife have accumulated considerable wealth, including a waterfront home in Newport Beach valued at \$2.5 million and another in Chula Vista valued at \$1.5 million, according to California property records. He travels the world spreading the church's message.

Arguinizoni, 72, has authored several church-related books and also owns California property used for church operations. His son, Sonny Arguinizoni Jr., now is the day-to-day head of operations for Victory Outreach.

Church administrators said money from its programs and churches is not used to enrich Arguinizoni or other administrators. The elder Arguinizoni did not respond to multiple phone messages.

Massachusetts is not the only state in which the church's labor arrangements have come under scrutiny.

In Oregon, Mark Hopkins, a resident of Victory Outreach home, filed a workers' compensation claim with the state in 1999 after being injured moving boxes on a loading dock for Kobos Co., a coffee roaster.

His claim was denied because the state determined that he was a volunteer and therefore not covered under Kobos's insurance policy. But the board noted that the work arrangement benefited everyone except Hopkins.

"Victory profits because it receives money for its programs using people who expect no remuneration and Kobos profits because it receives labor without having to use its own employees," the board wrote. "Individuals such as the claimant, however, who become injured when performing work, are losers from this arrangement."

States treat the volunteer labor differently, but work performed in the hotels appears to run afoul of laws in California, where many of the renovation jobs occurred.



SCOTT LARIBI FOR THE BOSTON GLOBE

Joseph Bishop (center), the pastor, made arrangements for the men from the church to work at the Marriott Copley Plaza.

A 1988 opinion currently posted on the state Division of Labor Enforcement's website states that if a person is performing work of a "commercial nature," then they must be paid according to the state's minimum wage law.

Victory Outreach officials said they have solicited input from California labor officials to ensure the legality of their operations, but a spokeswoman for the Division of Labor Enforcement there said it has no record of any contact with the church.

Boston labor attorney Shannon Liss-Riordan said Massachusetts offers an exemption for volunteer work done by people being rehabilitated or trained in charitable or religious orders, but moving furniture in a large for-profit hotel would not be considered an exempted activity.

"Even if you're providing workers with a residence and other services, that can't be a substitute for wages," she said. "There are extremely limited exceptions to this. Our Legislature has said very clearly that you can't take advantage of people who because of various circumstances are willing to work for little or nothing."

A way out for addicts

Jesse Carter's life hit a low point two years ago, when he was evicted from his North Philadelphia home and began sleeping in his 1985 Lincoln Town Car. He was unemployed, penniless, and panhandling to feed a daily cocaine habit.

"I was spaced out of my mind," Carter said. "I wanted to commit suicide."

A friend told Carter about Victory Outreach, which operated a recovery home for men in Philadelphia's Kensington district, one of the poorest urban neighborhoods in the country.

There was no cost for living in the home; Carter just had to commit to staying there, and to staying clean. He moved in soon after.

The recovery program's daily regimen of prayer and Bible study quickly changed Carter's perspective. He said he was moved by the church's mission of reaching out to people like him.

"God is using me and our church to go out to where other churches don't go," he said. "When Jesus Christ walked the earth, he didn't go to the rich. He went to the sick. He went to the poor. He went to the sinners ... That's what we've got to do — go out to the people that society has turned away."

Carter spends several hours a week at the church, which is housed in a large brick building that shares a block with a TV repair business and the Coconut Ranch bar.

On a recent Wednesday evening, Pastor Titus Buena bounded onto the altar wearing a bright blue T-shirt with the words "Winning is an Attitude." On a large projection screen he showed about 80 worshipers a picture of a boy running on prosthetic limbs, a wide smile on his face.

"This is the kind of kid I want to hang out with," Buena declared, telling the crowd that struggles in life must be overcome through hard work, perseverance, and faith.

Sitting among the worshipers that night was Joseph Bishop, an associate pastor who handles a different side of the church's business. He was the church official who made arrangements for Carter and the other men from the church to go to the Marriott Copley Plaza and work under Herrera.

Bishop declined to comment when asked how much money the church received from the job at the hotel, saying only that Victory Outreach has been working with Herrera for more than 15 years.

Conflicts of payment

For Herrera, Victory Outreach has been an ideal business partner.

In the early 2000s, the church's recovery homes offered an army of cheap laborers to his company, Installations Plus, which has removed and installed furniture at dozens of hotels nationwide

in recent years. According to its website, its clients have included the biggest names in the hospitality business, from Marriott to Westin to Hilton.

Herrera latches onto projects as part of a general contractor's bid to renovate hotels. On large projects, his subcontracts installing and removing furniture are worth hundreds of thousands of dollars, according to contractors who perform the work in Massachusetts.

The men of Victory Outreach did the work, and Herrera's only cost for their labor was a donation to the church to help pay for their care.

The amount depended on the size and duration of the job, ranging between several thousand dollars and \$45,000, according to pastors and home administrators.

Although that would leave Herrera with a substantial profit, some home administrators said he sometimes failed to pay the agreed-upon amount.

"There was always an excuse," recalled Mario Morales, director of a recovery home in Santa Ana, Calif. "He'd say our guys were sitting around or come up with some other reason not to pay."

Morales said he supplied men from the recovery home for hotel jobs between 2002 and 2004; the largest was the Disneyland Hotel in Anaheim — part of the massive entertainment park — where his men moved furniture and ripped out carpets for four months.

After chasing Herrera to get payments — which sometimes would come in the form of used hotel furniture instead of cash — Morales said he stopped working with him. "We trust people, but sometimes we end up getting burned," he said.

Herrera said he has used Victory Outreach for multiple hotel jobs, but said he does not remember Morales and could not respond to his allegations.

A spokeswoman for Disneyland Hotel said it requires its contractors to comply with state labor laws and could find no record of Herrera's company working on the hotel.

Such records typically do not exist, however, because hotels do not deal directly with his company, instead hiring a general contractor which then subcontracts the furniture installation to Herrera.

Other California hotels where men from Victory Outreach recalled working said they had no record of Herrera's company or that the renovation work was done under a prior owner.

But Morales and others said they renovated several hotels with Herrera, who at the time was working alongside his brother, Richard. Carlos Garcia, now a pastor in San Diego, said he worked under both Herreras while staying in a recovery home in Santa Ana.

"It was much more of a blessing for them than it was for us," said Garcia, who recalled moving furniture in a Marriott Residence Inn in Costa Mesa and making furniture deliveries to the luxury Hotel del Coronado near San Diego.

Despite the complaints, Herrera was able to continue to move through the network of Victory Outreach churches, which operate independently of one another in cities on opposite coasts.

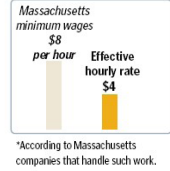
In Connecticut, Herrera recruited men from Pivot Ministries in Bridgeport, after being referred to that mission by the

'It was crazy in there. Everything was rush, rush, rush.'
ERIC DIGGS, member of the Victory Outreach crew



SCOTT LEWIS FOR THE BOSTON GLOBE

SHORT MONEY
How men from a Philadelphia church came to work at the Marriott Copley Place



HOST HOTELS & RESORTS INC.
Bethesda, Maryland
Marriott Copley Place owner that hired the general contractor for the 1,100-room renovation.

BSI
Woburn, Massachusetts
General contractor responsible for the guest rooms renovations.

INSTALLATIONS PLUS
Corona, California
Subcontractor hired by Baystate to move and install furniture in the hotel's guest rooms.

VICTORY OUTREACH
Christian evangelical church that supplied Installations Plus with dozens of men affiliated with its North Philadelphia church for the furniture job.

neighboring Victory Outreach church. Pivot's pastor also said he came to regret the deal he struck with Herrera.

The pastor, David B. Smith, said he provided Herrera with about a dozen men to move furniture at the Quincy Marriott and Waltham Embassy Suites in early 2011, where Baystate Services was the general contractor. The job lasted nearly three months, with work often stretching beyond 40 hours a week. Herrera paid the church \$42,080 — about \$7.30 an hour per person, still below minimum wage.

"It's not right, and the reason they do this is cheap labor," Smith said. "My men were overworked and not treated properly."

Herrera, who said he supports Victory Outreach's mission to rehabilitate addicts, said he negotiated lump sum payments with all the churches and recovery homes that supplied him with labor.

But he said his arrangements with church leaders did not address the amount ultimately paid to the workers. "We never discussed any type of compensation paid to the men," he said.

Despite a steady flow of jobs at major hotels, Herrera does not appear to be living an extravagant lifestyle. He rents a 2,200-square-foot home in Corona and the only vehicle registered under his name is a 2006 Ford pickup truck, according to motor vehicle records. County property records indicate he owes more than \$116,000 in back taxes to the state of California and the Internal Revenue Service.

Herrera said he is in a dispute with Baystate Services over the Marriott Copley renovation, saying the company has refused to pay him for his work.

A lawyer for Baystate said the firm does not owe Herrera money because it backcharged him for the \$31,000 it agreed to pay to the workers from Victory Outreach. The lawyer, Tom Elkind, said Herrera had initially told Baystate, a nonunion contractor, that he planned to hire from around Boston, but switched to Victory Outreach when he could not find local leads to do that job.

"He explained that they were more reliable than the transitory workers he could pick up otherwise," Elkind said.

Rushing, then the end

The Victory Outreach workers arrived in Boston in early November, after making a six-hour drive from Philadelphia to the pair of apartments in Chelsea where they would stay.

Each morning, the men woke up at about 6 a.m., ate breakfast, and made the 20 minute drive through early morning darkness to the hotel, where work started at 8 a.m.

The job was fast-paced and demanding. The men removed mattresses, headboards, chairs, and ottomans.

Their first day lasted 12 hours, Jesse Carter and other workers recalled, and the shifts would continue that way over the following weeks. They only had Sundays off. They worked among painters, drywallers, demolition men, and flooring crews — more than 100 of them crowding onto a couple of floors, sharing one elevator. Tempers flared constantly.

"It was crazy in there," said Eric Diggs, another member of the Victory Outreach crew. "Everything was rush, rush, rush." Nights were hardly rested. Each apartment had two bedrooms to be split by 12 men, sometimes more. Some slept on a couch or found a spot on the floor.

For some, the pace and the hours on the job got to be too much. Chatting with other laborers in the Marriott elevator, Diggs said he learned that others were making two to three times the \$200 in cash per week Victory paid its workers.

"We were working harder than anyone there, but we were getting paid the least," said Diggs, a former drug dealer.

By December, he said, some of the men from Victory Outreach started walking off the job or started slacking off and were fired. More men were sent from Philadelphia to fill the gap. Diggs, Carter, and several others slogged on, trying to finish the work.

The end would come quicker than they thought.

On Jan. 20, State Police investigators coursed through the Marriott's hallways on behalf of the attorney general's Fair Labor Division. The officers halted work and started pulling the men aside to be questioned. The officers wanted to know who they were working for, how much they were getting paid, and where they were staying.

"They were asking all kinds of questions," Carter said. "I just told them we were trying to make some money for us and our church."

The next day, Victory Outreach administrators decided to pull their men off the job. Once they returned home, the workers learned that a temporary crew was brought in for \$8 an hour, double the wages earned by the Victory Outreach workers.

It's the kind of money Diggs wished he could have made. He is now bouncing between odd jobs, struggling to make ends meet, and unable to even pay his phone bill. "Myself and a lot of others were really set back by this," he said.

The attorney general's agreement with Baystate will help, but the \$31,000 will be divided among 37 men. The size of their checks depends on how many hours they worked, with some to get as little as \$100; the biggest payout will be \$2,332.

Carter said he is trying to put the messy memory of the Marriott behind him. On a recent evening, he stood outside the Victory Outreach church in Philadelphia and greeted worshipers gathering for a service. He said he knew he and the other men had been taken advantage of in Boston, but he did not want to dwell on it.

"Our focus is on God," he said. "We can't just get worldly now and go start hiring lawyers. We've got to live in the path of the Lord."

Joint Task Force on the Underground Economy and Employee Misclassification Uncovers \$1.17M in Unreported Wages by Subcontractors on the Marriott Copley Place (Host Hotels) Renovation Project

Investigation finds wage violations, lack of unemployment insurance and workers compensation coverage, and worker misclassification

Boston – September 4, 2012 – The Patrick-Murray Administration's Joint Enforcement Task Force on the Underground Economy and Employee Misclassification (JTF) and the Executive Office of Labor and Workforce Development's (EOLWD) Department of Unemployment Assistance (DUA) recently finalized 12 audits that uncovered \$1,171,536 in unreported wages, 63 misclassified employees, and \$85,907 in unpaid DUA obligations among subcontractors at the Boston Marriott Copley Place renovation project. Three additional cases involved Stop Work Orders issued by EOLWD's Department of Industrial Accidents (DIA). The hotel is owned by Host Hotels and operated by Marriott.

The findings are the result of investigations led by EOLWD and the JTF. The JTF was established by Governor Deval Patrick through Executive Order #499 in March 2008 to coordinate multiple state agencies' efforts to stamp out fraudulent employment activities by enforcing the state's labor, licensing, and tax laws. The JTF is a broad coalition of state agencies including, among others, the Attorney General's Office, EOLWD's DIA and DUA, and the state's Department of Revenue. These agencies work together to protect workers and restore competitive parity and fairness for Massachusetts' businesses. Although the vast majority of Massachusetts employers conduct business with integrity, unscrupulous offenders are a serious threat to consumers, workers, tax revenues, legitimate businesses, and the economic well-being of the Commonwealth.

"When Governor Patrick launched the JTF in 2008, he sought to ensure fair and safe conditions for workers across

the Commonwealth while encouraging the growth and success of legitimate businesses by creating a level playing field," said Secretary of Labor and Workforce Development, Joanne F. Goldstein. "The JTF was also charged with pursuing owed revenue so that the cost of illegally cutting corners by unscrupulous businesses is not passed on to the Commonwealth's taxpayers and ratepayers. These investigations and results demonstrate that the Task Force is achieving its goals, while recognizing that there is still more to be done."

DUA investigators determined that six companies misclassified a total of 63 employees. Of the \$1,171,536 in unreported wages, \$587,249 was attributable to misclassified 1099 wages and \$584,287 was attributable to unreported W-2 wages. In some cases, employers were found in violation of more than one law.

Among the findings were:

- A company that illegally self-elected out of unemployment insurance contributions;
- Six companies that misclassified workers as contractors, not employees;
- Seven companies that failed to report wages;
- Three companies that had outstanding delinquencies;
- Three companies that failed to register with DUA;
- One company that failed to file quarterly reports;

- The largest violators were a company that misclassified 28 workers and failed to report over \$410,000 in wages; another was not registered at all with DUA and failed to report \$462,081 in W-2 wages.

DUA continues all efforts to enforce its findings and to collect all outstanding contributions owed.

In addition, EOLWD's DIA conducted three investigations at the Boston Marriott Copley Place work site. Three Stop Work Orders were issued to companies not providing legally required workers' compensation coverage, resulting in \$7,950 in fines. All three subsequently acquired Workers Compensation (WC) policies, and 19 employees had WC coverage as a result of the investigations.

In July 2012 the Attorney General's Office announced payment of wages by a Woburn general contractor in the amount of \$31,000 to workers employed by a subcontractor at this worksite.

Workers who believe that their rights have been violated and businesses who believe they are at an economic disadvantage because of unscrupulous competitors are strongly urged to call the Attorney General's Fair Labor Hotline at (617) 727-3465 or the Joint Task Force Referral Line at (877) 965-2267, email tips to jtftips@state.ma.us, or visit the Joint Task Force website at www.mass.gov/lwd/eolwd/jtf/ to submit complaints. More information about the wage and hour laws is also available in multiple languages at the Attorney General's Workplace Rights website at www.massworkrights.com.

The Boston Globe Hotel project flouted pay law

Violations found rife at 15 companies Laborers got half of minimum wage

Sept. 4 2012 By Casey Ross GLOBE STAFF

An \$18 million renovation of the Boston Marriott Copley Place that paid illegally low wages to men from a Philadelphia church was rife with violations of tax and labor laws, according to a state investigation that found improper activity by 15 construction companies.

Investigators for a state task force on the underground economy found the hotel's contractors failed to report \$1.2 million in wages, deprived the state of nearly \$86,000 in taxes, and illegally misclassified 63 employees to avoid spending money on required taxes, insurance, and other benefits.

Last month, the Globe reported that one contractor got its workers from a Philadelphia drug rehabilitation ministry, Victory Outreach. They were paid just \$4 an hour — half the state's minimum wage — to move furniture in and out of hotel's rooms. The men said they worked 12 hours a day, six days a week, and at night stayed in a pair of Chelsea apartments provided by the contractors.

Host Hotels & Resorts Inc., which owns the Marriott and funded the renovation, has said it was unaware of any potential labor violations until January, when State Police arrived at the hotel and began interviewing the Victory Outreach workers.

But the findings by labor investigators show the violations extended far beyond those involving the church's workers and involved an array of construction companies that employed a shadow workforce at the Back Bay hotel for months.

"These violations not only hurt employees, but also impact legitimate businesses and taxpayers, who end up subsidizing the unpaid wages, unemployment, and workers' compensation costs and taxes," said Joanne Goldstein, the state's secretary of labor and workforce development.

Six companies misclassified workers as independent contractors instead of as employees, which meant that they avoided paying unemployment taxes and funding health insurance and other benefits.

Seven companies failed to report wages and pay unemployment taxes on those wages, and others failed to register to pay unemployment taxes or were found to have outstanding delinquencies for prior violations. The largest violator misclassified 28 workers as independent contractors and failed to report more than \$410,000 in wages, investigators said.

A Host lawyer said the company had no knowledge of violations and took steps to police contractors as soon as investigators began probing the Victory Outreach workers' wages.

"We acted quickly and aggressively to gather information and to make it clear to all the parties involved that we will not tolerate violations of the law on any Host project," the lawyer, Kevin Gallagher, said in a statement. Host, a Maryland investment company, owns 120 luxury hotels around the world.

Tom Elkind, a lawyer for Woburn-based Baystate Services, the general contractor that oversaw the renovation of the hotel's 1,100 guest rooms, said it, too, was unaware of labor violations. He said company

executives could not have intervened earlier.

He said Baystate took action to ensure compliance once investigators began looking into the church workers. He said Baystate contacted all subcontractors to ensure they were paying minimum wage and complying with other laws.

"Baystate reacted to the violations as soon as it learned about them," said Elkind. "It did the right thing, and it has also agreed to be more proactive in the future by spot-checking with employees of its subcontractors to make sure they are being paid appropriately."

Baystate's \$4 million bid for the contract was significantly lower than the bids from several unionized competitors. For example, J.J. Vaccaro of Somerville bid \$8.5 million, according to CEO Michael Kennedy.

Following an investigation by Massachusetts Attorney General Martha Coakley, Baystate agreed earlier this year to pay \$31,000 in back wages to 37 Victory Outreach workers who received illegally low compensation for nearly three months of work. The company did not admit any wrongdoing. Host did not pay any back wages or face other penalties.

The men from the church, who were recovering from drug addiction and other problems, were employed under a contract held by Corona, Calif.-based Installations Plus, which was hired to install furniture in hotel rooms. It faced no penalties. Owner George A. Herrera has defended the use of church-supplied labor, saying it was Victory Outreach's responsibility to ensure

workers were fairly compensated.

Investigators said it is frustrating that, even in cases of widespread labor violations, they are blocked by state laws from charging contractors and property owners.

"The law makes it very difficult to hold owners, developers, and general contractors liable for wage and employment violations of subcontractors on their projects," Goldstein said.

And even if the state finds violations by multiple subcontractors it cannot identify them because state law protects the privacy of companies accused of tax violations. That means none of the 15 companies it found to be acting illegally at the Marriott will be known to the public.

Meanwhile, the volume of violations being discovered at Massachusetts work sites continues to increase.

In 2011, the state task force on the underground economy collected nearly \$11 million in fines, back taxes, and unpaid wages from companies found in violation of labor laws, up from \$1.4 million in 2009.

The violations were found in a range of industries, including food service, information technology, and construction.

State officials began investigating the Marriott project in November, when officials with the Department of Industrial Accidents issued stop-work orders to several contractors found to have invalid workers' compensation insurance.

Gallagher, Host's lawyer, noted that Host had put safeguards in place to ensure workers were treated fairly, including

language in its contracts requiring companies to abide by the state's labor laws.

In light of the widespread violations that nonetheless occurred at the Marriott project, Host has pledged to tighten its oversight. On future projects, Gallagher said, the company will require the general contractor to certify that all of its subcontractors are aware of labor laws and are following them.

It will also require subcontractors to certify they are complying with the laws each time they submit payment invoices.

Casey Ross can be reached at cross@globe.com

LABOR VIOLATIONS

Renovation of the Boston Marriott Copley Place involved illegal activity by an array of construction companies.

Number of labor violators ...



Labor laws broken ...

\$1.2 million
Value of unreported wages

63 employees
Number illegally misclassified
as independent contractors

\$86,000
Amount of unemployment
insurance taxes avoided by
classifying employees as
independent contractors

SOURCE: State Task Force on the
Underground Economy GLOBE STAFF

State accuses 15 firms in Marriott Copley Place renovation

by Galen Moore, Web Editor

Date: Tuesday, September 4, 2012,
8:14am EDT

Construction companies working on an \$18 million renovation of the Boston Marriott Copley Place hotel allegedly underpaid workers, and hid wages and laborers' status in order to dodge taxes, according to the Massachusetts Executive Office of Labor and Workforce Development.

Host Hotels & Resorts Inc. (NYSE: HST) owns the Marriott Copley Place in Boston's Back Bay.

As many as 15 companies broke labor and tax laws, but none are likely to be held publicly accountable, or even charged, the Boston Globe reports (subscription),

citing state law protecting the privacy of companies charged with tax violations. The alleged fraud reportedly cost the state about \$86,000 in taxes.

Baystate Services of Woburn, Mass. was the general contractor on the renovation of 1,100 guest rooms at the hotel, according to the Globe. Its \$4 million bid was less than half that of several union companies, such as J.J. Vaccaro of Somerville, Mass., which bid \$8.5 million.

Earlier this year, Baystate agreed to pay \$31,000 in back wages to 37 workers in a Pennsylvania church program. The workers, all recovering drug and alcohol addicts, were asked to work moving furniture into and out of rooms for 12-hour days at a rate of \$4 an hour. That's half the Massachusetts minimum wage.



Photo by Piotrus Creative Commons attribution



State alleges violation in Boston hotel work

September 4, 2012, 7:13 am

BOSTON (AP) — A state investigation has found that an \$18 million renovation at a luxury Boston hotel paid illegally low wages and was rife with violations of tax and labor laws.

Investigators for a state task force on the underground economy found the Boston Marriott Copley Place's contractors failed to report \$1.2 million in wages, deprived the state of nearly \$86,000 in taxes, and illegally misclassified 63 employees to avoid spending money on required taxes, insurance, and other benefits.

Host Hotels & Resorts Inc., which owns the Marriott and funded the renovation, has said it was unaware of any potential labor violations until January when the state started investigating.

Joanne Goldstein, the state's secretary of labor and workforce development, tells The Boston Globe legitimate businesses and taxpayers end up subsidizing the unpaid wages.



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Employee misclassification, wage problems plague Marriott renovation project

Posted on September 4, 2012 by icon1099

Massachusetts state officials recently uncovered a slew of tax and labor law violations during an investigation of employment practices used by construction companies working on an \$18 million renovation project at the Boston Marriott Copley Place.

The possibility of malfeasance was first brought to the attention of the state Attorney General's Office by the New England Regional Council of Carpenters. Investigators from the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification subsequently discovered a wide range of violations.

The companies working on the hotel collectively failed to report \$1.2 million in wages and defrauded the state of almost

\$86,000 in taxes. Sixty-three employees were illegally misclassified as independent contractors as part of a scheme to dodge taxes and avoid paying for insurance and other benefits.

In a press release, Massachusetts Attorney General Martha Coakley slammed the construction companies' underhanded tactics and portrayed her office's actions as necessary to ensure fair competition in the industry.

"We enforce these laws not only to protect workers, but to level the playing field for all businesses who play by the rules," said Coakley.

Joanne Goldstein, Massachusetts' secretary of labor and workforce development, elaborated further.

"These violations not only hurt employees, but also impact legitimate businesses and taxpayers, who end up subsidizing the unpaid wages,

unemployment, and workers' compensation costs and taxes," explained Goldstein.

According to data from the attorney general's employee misclassification task force, the "underground economy" has been significantly expanding in Massachusetts. In 2011, the group collected almost \$11 million in fines, back taxes and unpaid wages. This was up dramatically from the \$1.4 million collected in 2009.

The spread of illicit labor practices is sure to attract increasing attention from state officials. It may even drive further tightening of local laws regarding independent contractor compliance.

Companies that work with freelancers should keep abreast of regulatory changes and enforcement actions in order to ensure that their independent contractor agreements will withstand scrutiny.



Airing Boston Marriott's Dumb, Dirty Laundry

Hiring Non-Union Labor In A Union Town Was Risky Enough. Playing Dumb Was Worse.

Sunday, September 9, 2012

By Scott Van Voorhis

Banker & Tradesman Columnist

Anyone who thinks you can be completely clueless and still successfully run a major city hotel should consider carefully the dustup over the Boston Marriott Copley Place's \$18 million renovation.

The allegations that recovering drug addicts imported from Philadelphia were paid \$4 an hour - half the state's already measly minimum wage - are sorry enough.

But the defense of the hotel's owners - they just didn't know what was going on with all their contractors - is just as indefensible when it comes to savvy business management in a major metro market.

And there's definitely no room to be clueless if you opt to go the cheaper - but definitely not PC, at least not locally - route of running a non-union shop in the labofriendly Hub, as the owners of Boston's Marriott have.

Given the disaster a few years ago that befell the Hyatt - another nonunion Boston hotel caught misbehaving - property owner Host Hotels & Resorts Inc. and Marriott management should have been on guard.

Instead, it looks like they were asleep at the switch.

Warning Signs

If you are a non-union hotel in Boston, watch your step: Some of the most aggressive, toughest and clever union activists around have you in their sights.

The black eye Hyatt gave itself three years ago, when it

fired almost 100 house keepers at its three Boston-area hotels, should have been enough to keep managers at Marriott and other non-union operators on their toes. News of the firings energized Boston labor activists, including the city's powerful hotel workers union, Local 26, which organized pickets outside Hyatt's local hotels.

In an added twist, the workers claimed they were made to train their replacements.

The genuine plight of the hotel workers - thrown into the cold in the midst of the Great Recession - became a front-page story. Under pressure, Hyatt made some concessions, extending the workers' health benefits and pledging to help them find jobs.

But the damage was done, with Gov. Deval Patrick jumping on the bandwagon and calling for a boycott a few months after the firings.

While local passions have cooled, the Boston story is still making the rounds, popping up in a recent story about a worldwide boycott of Hyatt hotels being pushed by union activists.

Managed by a big chain that has resisted unionization, you would think the Boston Marriott would have paid close attention to the lessons of the Hyatt fiasco. Perhaps they did and took away a simple lesson like, "hey, don't fire the housekeepers!"

If so, it missed the point.

A spokeswoman for Marriott said the chain simply manages the hotel. Typically, on a project of this size, Host, the owner, takes charge of the renovations.

Sounds like a somewhat problematic division of labor, but that's a subject for another time.

For its part, Host, in a statement from its general counsel, said it was completely unaware of the wage violations and took corrective action as soon as the issues - which ranged well beyond the Philadelphia crew - were brought to its attention Jan. 20.

Nevertheless, the hotel took the low cost labor route in its sweeping renovation of the showcase Copley Place hotel without looking at the potential political consequences.

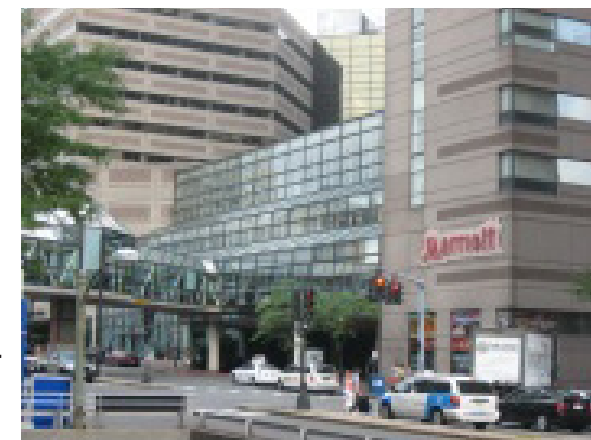
That Host Hotels would opt to hire a nonunion contractor for its work is not that surprising - after all, workers at the hotel aren't unionized either. But by doing so, the hotel also set itself up for scrutiny by labor activists eager to pounce on any evidence of corner-cutting, from employing illegals to the practice of misclassifying full-time employees as independent contractors.

Anybody with a rudimentary knowledge of the local construction industry knows this, with the region's powerful carpenters' union keeping a close eye on the issue.

Playing Dumb

Frankly, anyone who has worked in downtown Boston and has seen pickets in front of various renovation and construction projects protesting the use of a non-union contractor could figure out this is a touchy area. It happens all the time.

But if that wasn't enough for the Marriott, Baystate Services - the contractor on the renovation job - put in a bid for \$4 million, or less than half some of its union competitors, according to the Globe.



Why so low? Now that definitely should have raised some red flags.

Nothing wrong with cutting costs, but you would have thought someone in the hotel's chain of command would have wanted to know how Baystate came up with those numbers - and, as importantly, that there was no funny business going on.

But a spokesman has said hotel management wasn't aware anything was amiss until State Police detectives showed up at the Boston hotel in January.

In fact, hotel managers were not alone in their cluelessness - the head of Baystate has reportedly said he was also unaware of any labor law violations.

It's enough to make Sergeant Schultz look like a standup guy.

It takes savvy to survive and thrive in Boston's highly competitive, cut-throat hotel market.

I can't for the world imagine Robin Brown, the legendary Four Seasons manager who went on to build the Mandarin Oriental, firing all his housekeepers. It's also hard to imagine him not knowing who was doing the renovation work on his hotel.

The same can be said, for that matter, of Tim Kirwan, the also very savvy general manager of the InterContinental Hotel, who can tick off in an instant which minor celebrities are staying at which hotels in Boston on any particular night.

It's no sin to operate a non-union hotel in Boston, or, for that matter, any other business, whatever the activists say.

But if you are clueless about it, you won't last long.

The Boston Globe **Business**

State aims to toughen labor wage, tax laws

Plan would hold hiring companies liable

By Casey Ross Globe Staff
September 12, 2012

After discovering repeated labor violations at Massachusetts work sites, Governor Deval Patrick's administration wants to strengthen enforcement against companies that use temporary agencies or outside contractors that flout tax and wage laws.

The state Office of Labor and Workforce Development is considering legislative changes and other remedies to hold companies liable in cases where their contractors are found to be underpaying employees or breaking other wage laws.

The changes would also improve the government's ability to punish out-of-state firms that flee Massachusetts to evade enforcement.

Currently, state law only allows investigators to charge the direct employers with labor violations in most circumstances.

The administration's effort follows a Boston Globe report on labor violations associated with an \$18 million renovation of the Boston Marriott Copley Place.

State investigators found that 15 companies violated wage and tax laws while working on the project. The violations included the underpayment of workers from a Philadelphia drug rehabilitation ministry who received just \$4 an hour to move furniture — half the state's minimum wage.

While the 15 subcontractors were ordered to pay back taxes and take other remedial measures, neither the hotel's owner, Host Hotels & Resorts

Inc., nor the general contractor on the renovation, Baystate Services Inc., faced charges.

Lawyers for Baystate Services and Host Hotels have said their executives did not know of the labor violations until state investigators began interviewing the Philadelphia workers at the Marriott last winter. Host and Baystate have since committed to step up efforts to ensure compliance with state laws by their subcontractors.

Company executives declined to comment on the enforcement changes being considered by the state.

Joanne Goldstein, state labor secretary, said the Marriott case is one of many in which investigators had little recourse against the companies that funded and managed the work. She said holding such companies accountable will help remedy violations that hurt workers and taxpayers and make it more difficult for legitimate businesses to compete.

"This is a problem we are seeing in a range of industries, not just in traditional construction or on renovations like the Marriott," said Goldstein, whose office oversees a special task force on the underground economy.

Goldstein said the task force is reviewing current wage and labor laws and will consider potential recommendations and remedies.

Other states have already toughened their laws.

In California, companies are now required to have their contractors certify they can afford to pay their employees proper wages and buy workers'

compensation insurance.

Illinois approved a law imposing joint liability on companies and contractors for underpaying employees or illegally charging them excessive fees for transportation or cashing checks.

In recent years, Massachusetts investigators found widespread violations of labor and tax laws on sites owned or managed by large national companies.

In many cases, however, the companies were never charged with wrongdoing. Among the cases:

- In January, subcontractors under national home builder Pulte Homes were ordered to pay more than \$400,000 in unpaid wages and penalties for violations at six work sites. Many of the underpaid workers were Brazilian immigrants. Pulte did not face any charges.
- In 2010, temporary agency Labor Solutions Inc. was ordered to pay \$500,000 in restitution for failing to pay minimum wage and overtime to employees at several Worcester area manufacturing plants. The manufacturing companies themselves were not charged.
- In 2009, five contractors working under US apartment builder AvalonBay Communities Inc. were ordered to pay more than \$50,000 in fines for tax and wage violations associated with its Massachusetts projects. AvalonBay was not charged.

State Senator Daniel Wolf, chairman of the Legislature's Joint Committee on Labor and Workforce Development, said the recent investigation into the work at Marriott Copley

Place shows that state law needs to be stronger.

"It's a sad situation," Wolf, a Democrat from Harwich, said of the violations at the hotel. "We're at a time economically where a lot of people need work and are in vulnerable positions, and this is taking advantage of those people. We need to look at legislative solutions to make that behavior less likely to happen."

In the Marriott renovation, the furniture movers were affiliated with a ministry called Victory Outreach and were hired by a Southern California firm called Installations Plus.

The men from the church, many of whom were recovering from drug addictions and other problems, said they worked 12 hours a day, six days a week, and were paid \$200 a week in cash, about half the state's minimum wage.

The owner of Installations Plus, George A. Herrera, cut off communication with investigators and was not charged with wrongdoing.

Meanwhile, Victory Outreach told investigators it did not have any money to pay the men and also was not charged.

Following an investigation by Attorney General Martha Coakley, general contractor Baystate Services volunteered to pay 37 men from the ministry a total of \$31,000 in back wages. The company did not admit any wrongdoing.

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The Boston Globe **Business**

California regulators probe Marriott contractor

By Casey Ross | GLOBE STAFF SEPTEMBER 13, 2012

California regulators are investigating a contractor based near Los Angeles whose workers were paid illegally low wages to renovate the Boston Marriott Copley Place.

Investigators from the California Division of Labor Standards Enforcement want to review the finances and operations of Installations Plus, a furniture installer that has repeatedly used workers from an inner-city evangelical ministry, Victory Outreach Church, for hotel jobs in California and Massachusetts.

The company's owner, George A. Herrera, has been ordered to submit payroll records, tax returns, and other documents dating back three years, according to a copy of the California order.

Herrera could not be reached for comment Wednesday.

The California inquiry follows a Boston Globe story detailing Herrera's company's use of ministry members to renovate the Marriott Copley Place and several other hotels in Southern California. At the Marriott, workers from a Victory Outreach church in Philadelphia were paid \$4 an hour, half the state's minimum wage, to move furniture in the hotel for 12 hours a day, six days a week.

Victory Outreach, based in California, is an international church that operates recovery homes for people struggling with substance abuse, criminal histories, and other issues. The church has locations in major US cities, and also has branches in South America, Africa, Europe, and Asia.

Victory Outreach administrators in California told the Globe that Herrera often did not pay its members for their work, but instead would make a donation to the church. In some instances, church officials said, Herrera failed to make the agreed-upon donation for work at several properties, including the Disneyland Hotel in Anaheim.



The company's use of church workers may run afoul of California labor laws. A 1988 opinion currently posted on a labor department website indicates that church members who perform tasks of a commercial nature, whether intending to volunteer their services or not, must be paid according to the state's minimum wage law.

In an interview with the Globe last month, Herrera defended his use of church-supplied labor, saying he supports Victory Outreach's mission to rehabilitate people struggling with substance abuse. He said he pays the church a lump sum, usually tens of thousands of dollars, to supply workers for hotel renovations, and he suggested it is the church's responsibility to ensure the men are compensated fairly.

Massachusetts Attorney General Martha Coakley found that Victory Outreach members working under Herrera's firm at the Marriott Copley were owed \$31,000 in back wages for their labor. Baystate Services Inc., the general contractor that managed the hotel's renovation, volunteered to pay the money after Herrera refused, according to Baystate's attorney, Tom Elkind. He said Baystate will try to recoup the \$31,000 from Herrera.

Massachusetts investigators also found that a total of 15 subcontractors on the Marriott job violated state tax and labor laws. Together, they failed to report nearly \$1.2 million in wages, and deprived the state of \$86,000 in unemployment taxes.

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The Boston Globe **LETTERS**

Hotel project's violations expose underground system of scams

September 15, 2012

The series of articles by Casey Ross on the illegal and unethical labor practices on the recent renovation of the Boston Marriott Copley Place pull back the curtain on the seamy underside of private construction. The sub-minimum-wage payments to workers in a drug rehab program are just the latest version of extensive underground-economy scams that hurt workers, legitimate employers, and taxpayers.

Host Hotels & Resorts' claims of ignorance are disingenuous, at best. Early on in the project, the hotel became the site of weekly protests over these issues.

While state regulatory agencies took aggressive action after completion of the job, those I consider ultimately responsible for the conditions — the owner and general contractor — have escaped punishment because of shortcomings in the laws.

A successful approach to correcting these practices will require more proactive tactics, such as suspending construction as soon as illegal practices are uncovered.

These conditions will occur again unless the penalties for cheating outweigh the savings realized.

Mark Erlich
Executive Secretary-Treasurer
New England Regional
Council of Carpenters
Boston

The Boston Globe **Business** Mass. to study the underground economy

Effort to gauge effect on tax income, budget

By Casey Ross | GLOBE STAFF | DECEMBER 05, 2012

Governor Deval Patrick's administration is launching a first-of-its-kind study to define the scope and financial cost of Massachusetts' underground economy, as investigators continue to find widespread violations of tax and labor laws, officials said Tuesday.

The study, to be conducted over the next year, will identify the extent of employment fraud by industry category, and attempt to tabulate the amount of money the state is losing each year in unpaid taxes.

The effort will focus on the practice of illegally misclassifying workers as independent contractors, which allows companies to keep employees off the official books while benefiting from their labor. Misclassification often leads to minimum wage violations, avoidance of unemployment and payroll taxes, and failure to provide health insurance, retirements benefits, and safe working conditions.

"We have concerns and indications that some significant percentage of the Massachusetts economy is operating in the underground economy," said Joanne Goldstein, Patrick's secretary of labor and workforce development. "That deprives the state of revenue, which is critical, and it deprives legitimate businesses of a level playing field."

Goldstein stressed that most of the state's employers operate within the laws, but she said

the study is necessary to understand the extent of illegal behavior and identify areas where stepped up enforcement is needed.

The state on Wednesday will announce the results of a series of recent audits that found \$11.5 million in unreported wages and 2,300 misclassified employees at an auto auction company, a home health care agency, and an adult entertainment business. The names of the companies are being withheld because of privacy rules.

But the audits underscore the extent of violations being uncovered in an array of industries. A state task force that investigates the underground economy in Massachusetts is recovering increasing amounts of money every year for tax and labor violations, from \$1.4 million in 2009 to \$11 million in 2011. The task force, created by Patrick in 2008, is made up of 15 state agencies that regulate employment in the state.

The amount recovered from employers is expected to increase significantly again in 2012. So far this year, the Department of Unemployment Assistance alone has collected about \$11.1 million, which is more than all 15 task force agencies collected in 2011, officials said.

The upcoming study will be conducted by examining state audits and other information kept by the state Department of Revenue.

That data will be compiled by the Revenue Solutions Inc., a private contractor, and analyzed by David Weil and James Rebitzer, professors at Boston University's School of Management.

Officials said information on individual companies will not be included in the final report, which will seek to identify general areas of concern, not single out particular employers for enforcement.

Weil said that several studies have been done in Massachusetts and other states to examine the misclassification of workers in specific business sectors. But he said the new study is unusual in that it will look at a broad cross section of industries to determine the full scope of illegal activity.

"This will allow us to understand where misclassification is occurring, what the patterns are, and how it is occurring in different kinds of industries," said Weil.

He said that his own research has found that employers are becoming increasingly detached from workers, using layers of contractors and subcontractors in a way that insulates them from liability for wage, tax, and safety violations.

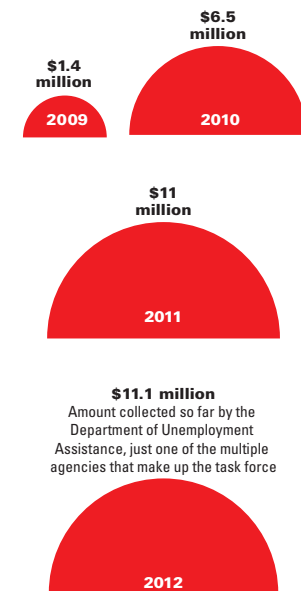
Weil emphasized, however, that the study will help to improve state laws by allowing for the legitimate use of independent contractors, while pinpointing areas where stepped up

enforcement is needed. "There needs to be refinement of the laws in both respects," he said.

The study will be funded with a portion of the proceeds from a settled lawsuit against FedEx Corp. for misclassifying drivers as independent contractors. The company agreed to pay the state \$3 million in 2010 to settle the claim.

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Fines, back taxes, and unpaid wages collected from employers by the state's underground economy task force.



SOURCE: State Task Force on the Underground Economy

GLOBE STAFF

Joint Enforcement Task Force on the Underground Economy and Employee Misclassification



COMMONWEALTH OF MASSACHUSETTS

Deval L. Patrick, Governor

Timothy P. Murray, Lieutenant Governor

Joanne F. Goldstein, Secretary

Executive Office of Labor and Workforce Development