

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

In the Matter of the Request for Review of:

**Antoun Jean Fata, an individual dba
Fata Construction & Development**

Case No.: 18-0074-PWH

From a Civil Wage and Penalty Assessment issued by:

Division of Labor Standards Enforcement

DECISION OF THE DIRECTOR OF INDUSTRIAL RELATIONS

Affected contractor Antoun Jean Fata dba Fata Construction and Development (Fata) requested review of a Civil Wage and Penalty Assessment (Assessment) issued by the Division of Labor Standards Enforcement (DLSE) on April 18, 2018, with respect to work performed on West High School Modernization and Auditorium Project, Bid Package #7 (Project), for the Torrance Unified School District (Awarding Body) in Los Angeles County.

On August 23, 2019, DLSE filed and served a motion to amend the Assessment upward under California Code of Regulations, title 8, section 17226. The motion sought to increase the unpaid prevailing wages from \$12,253.78 to \$15,049.09,¹ increase the Labor Code section 1775 and 1813 penalties from \$17,200.00 to \$22,400.00, and impose Labor Code section 1777.7 penalties of \$9,120.00.² There being no objection from Fata, Hearing Officer John J. Korbol granted DLSE's motion on November 22, 2019.

A Hearing on the Merits occurred in Los Angeles, California, on January 15, 2021, before Hearing Officer Ann Wu. William A. Snyder appeared as counsel for DLSE. There was no appearance by or on behalf of Fata. The Hearing Officer proceeded to conduct the Hearing on the Merits in Fata's absence to formulate a recommended

¹ The \$15,049.09 reflects \$14,829.55 in unpaid wages and \$219.54 in unpaid training fund contributions.

² All statutory references are to the Labor Code unless otherwise specified.

decision as warranted by the evidence, pursuant to California Code of Regulations, title 8, section 17246, subdivision (a).

Deputy Labor Commissioner Patricia Rangel testified in support of the Assessment. DLSE's documentary exhibits were admitted into evidence without objection. The matter was submitted for decision on January 15, 2021. Fata has not filed a motion seeking relief from its non-appearance, as permitted under California Code of Regulations, title 8, section 17246, subdivision (b).

Prior to the day of Hearing, the parties stipulated to the following:

- The work subject to the Assessment was subject to the prevailing wage and apprenticeship requirements.
- The Labor Commissioner timely served the Assessment.
- The Request for Review was timely filed.
- The Labor Commissioner's enforcement file was timely requested and produced.
- No back wages have been paid nor deposit made with the Department of Industrial Relations as a result of the Assessment.

The issues for decision are as follows:

- Did Fata fail to pay required prevailing wages on the Project?
- Did the Labor Commissioner abuse her discretion in assessing section 1775 penalties?
- Did Fata fail to satisfy the minimum ratio requirement for the employment of Cement Mason apprentices on the Project?
- Did the Labor Commissioner abuse her discretion in assessing section 1777.7 penalties?
- Is Fata liable for accrued interest on the unpaid wages?
- Is Fata liable for liquidated damages?

For the reasons set forth below, the Director of Industrial Relations finds that DLSE carried its initial burden of presenting evidence at the Hearing that provided prima facie support for the amended Assessment, and that Fata failed to carry its burden of

proving that the basis for the amended Assessment was incorrect. (See Cal. Code Regs., tit. 8, § 17250, subds. (a), (b).) Accordingly, the Director issues this decision affirming the amended Assessment.

FACTS

The facts stated below are based on DLSE Exhibit Numbers 1 through 35, the testimony of Rangel, and the contents of the Hearing Officer's file.

Failure to Appear.

Fata appeared in pro per at the first four Prehearing Conferences conducted by Hearing Officer Korbol on June 4, 2018, August 13, 2018, December 3, 2018, and March 25, 2019. Fata did not appear at the next Prehearing Conference conducted by Hearing Officer Korbol on November 18, 2019. Fata appeared in pro per at the last Prehearing Conference conducted by Hearing Officer Korbol on September 28, 2020, at which time the Hearing on the Merits was scheduled for January 15, 2021.

The Hearing Officer was not contacted by Fata or any representative of Fata at any time between September 28, 2020, and the Hearing on January 15, 2021. Fata did not submit any exhibit or witness lists, and did not participate in the framing the joint statement of issues. There was no appearance by or on behalf of Fata at the Hearing.

The Assessment.

The Awarding Body advertised the Project for bid on November 11, 2016. The bid advertisement specified that the successful bidder was to pay no less than the applicable prevailing wage to all workers in the execution of the contract. The successful bidder was Fata, who entered into a contract with the Awarding Body on January 18, 2017, for work on West High School. Fata had workers on the Project from June 1, 2017, to October 18, 2018. The work on the Project was completed on January 19, 2019, and accepted by the Awarding Body on May 6, 2019.

According to the certified payroll records (CPRs), Fata classified his workers on the Project as Cement Masons, Laborers, and Operating Engineers. The prevailing

wage determination (PWD) in effect on the bid advertisement date for the Cement Mason classification is Cement Mason (SC-23-203-2-2016-1). The Cement Mason PWD set the hourly base rate for such workers at \$33.30, the training fund contribution at 64 cents per hour, and the fringe benefits at the cumulative figure of \$22.96 per hour. This is an apprenticeable craft.

The PWD in effect on the bid advertisement date for the Laborer classification is Laborer (SC-23-102-2-2016-1). The Laborer PWD set the hourly base rate for Laborer, Group 1, at \$32.34, the training fund contribution at 69 cents per hour, and the fringe benefits at the cumulative figure of \$19.05 per hour. This, too, is an apprenticeable craft.

The PWD in effect on the bid advertisement date for the Operating Engineer classification is Operating Engineer (SC-23-63-2-2016-2). The Operating Engineer PWD set the hourly base rate for Operating Engineer, Group 1, at \$41.85, the training fund contribution at 95 cents per hour, and the fringe benefits at the cumulative figure of \$24.94 per hour. This, too, is an apprenticeable craft.

The amended Assessment asserted that the workers employed by Fata on the Project had been underpaid in the collective amount of \$15,049.09. The amended Assessment asserted section 1775 penalties were due at the rate of \$200.00 per violation in the total amount of \$22,400.00 based on 112 instances in which the workers were underpaid prevailing wages. The amended Assessment also asserted section 1777.7 penalties were due at the rate of \$20.00 per violation in the total amount of \$9,120.00 for 456 apprenticeship violations.

DISCUSSION

The California Prevailing Wage Law (CPWL), set forth at Labor Code sections 1720 et seq., requires the payment of prevailing wages to workers employed on public works construction projects. The purpose of the CPWL was summarized by the California Supreme Court in one case as follows:

The overall purpose of the prevailing wage law . . . is to benefit and protect employees on public works projects. This general objective subsumes within it a number of specific goals: to protect employees from substandard wages that might be paid if contractors could recruit labor from distant cheap-labor areas; to permit union contractors to compete with nonunion contractors; to benefit the public through the superior efficiency of well-paid employees; and to compensate nonpublic employees with higher wages for the absence of job security and employment benefits enjoyed by public employees.

(*Lusardi Construction Co. v. Aubry* (1992) 1 Cal.4th 976, 987, citations omitted (*Lusardi*)).) DLSE enforces prevailing wage requirements not only for the benefit of workers but also “to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.” (§ 90.5, subd. (a); see also *Lusardi, supra*, at p. 985.)

Section 1775, subdivision (a), requires, among other provisions, that contractors and subcontractors pay the difference to workers who were paid less than the prevailing wage rate, and prescribes penalties for failing to pay the prevailing wage rate. The prevailing rate of per diem wage includes travel pay, subsistence pay, and training fund contributions pursuant to section 1773.1. Section 1775, subdivision (a)(2), grants the Labor Commissioner the discretion to mitigate the statutory maximum penalty per day in light of prescribed factors. Section 1742.1, subdivision (a), provides for the imposition of liquidated damages (essentially a doubling of the unpaid wages) if the unpaid wages are not paid within 60 days following service of a civil wage and penalty assessment under section 1741.

In general, and unless an exemption applies, section 1777.5 and the applicable regulations require the hiring of apprentices to perform one hour of work for every five hours of work performed by journeypersons in the applicable craft or trade. (Cal. Code Regs., tit. 8, § 230.1, subd. (a).) Prior to commencing work on a contract for public works, every contractor must submit contract award information to applicable apprenticeship programs that can supply apprentices to the project. (§ 1777.5, subd.

(e.) The Division of Apprenticeship Standards (DAS) has prepared a form, DAS 140, that a contractor may use to submit contract award information to an applicable apprenticeship committee. (Cal. Code Regs., tit. 8, § 230, subd. (a).)

A contractor does not violate the requirement to employ apprentices in the 1:5 ratio if it has properly requested dispatch of apprentices and no apprenticeship committee in the geographic area of the public works project dispatches apprentices during the pendency of the project, provided the contractor made the request in enough time to meet the required ratio. (Cal. Code Regs., tit. 8, § 230.1, subd. (a).) DAS has prepared another form, DAS 142, that a contractor may use to request dispatch of apprentices from apprenticeship committees. Thus, the contractor is required to both notify apprenticeship programs of upcoming opportunities and to request dispatch of apprentices.

When DLSE determines that a violation of the prevailing wage laws has occurred, it may issue a written civil wage and penalty assessment pursuant to section 1741. An affected contractor or subcontractor may appeal the assessment by filing a request for review under section 1742. The request for review is transmitted to the Director of the Department of Industrial Relations, who assigns an impartial hearing officer to conduct a hearing in the matter as necessary. (§ 1742, subd. (b).) At the hearing, DLSE has the initial burden of presenting evidence that “provides prima facie support for the Assessment” (Cal. Code Regs., tit. 8, § 17250, subd. (a).) When that burden is met, “the Affected Contractor or Subcontractor has the burden of proving that the basis for the Civil Wage and Penalty Assessment . . . is incorrect.” (Cal. Code Regs., tit. 8, § 17250, subd. (b); accord, § 1742, subd. (b).) At the conclusion of the hearing process, the Director issues a written decision affirming, modifying or dismissing the assessment. (§ 1742, subd. (b).)

The prevailing rate of pay for a given craft, classification, or type of worker is determined by the Director of Industrial Relations in accordance with the standards set forth in section 1773. The Director determines the rate for each locality in which public work is performed (as defined in section 1724), and publishes a general prevailing wage

determination (PWD) for a craft to inform all interested parties and the public of the applicable prevailing wage rates. (§ 1773.) Contractors and subcontractors are deemed to have constructive notice of the applicable prevailing wage rates. (*Division of Labor Standards Enforcement v. Ericsson Information Systems* (1990) 221 Cal.App.3d 114, 125.) Ultimately, the Director's PWDs determine the proper pay classification for a type of work. The nature of the work actually performed, not the title or classification of the worker, is determinative of the rate that must be paid. The Director publishes an advisory scope of work for each craft or worker classification for which she issues a PWD. The decision about which craft or classification is appropriate for the type of work requires comparison of the scope of work contained in the PWD with the actual work duties performed.

Fata Failed to Pay Required Prevailing Wages.

In this case, the record establishes that DLSE presented prima facie support for the Assessment, and Fata failed to prove the basis for the Assessment was incorrect. The documentary and testimonial evidence in this case is undisputed. Rangel testified about the content of the Assessment, the underlying audits, her analysis of the CPRs and canceled pay checks provided by Fata, and the results of her investigation. In the course of conducting her audit and gathering information about Fata's prevailing wage violations, Rangel interviewed some of the workers and asked them to describe the work they did on the Project. These workers provided answers to a questionnaire provided by DLSE. The workers summarized their recollection of the period of time they were employed on the Project. Some of the workers provided pay stubs they received from Fata for work performed on the Project. Other workers provided invoices they provided to Fata for work performed on the Project.

Every employer in the on-site construction industry, whether the project is a public work or not, must keep accurate information with respect to each employee. Industrial Welfare Commission (IWC) Wage Order No. 16-2001, which applies to on-site occupations in the construction industry, provides as follows:

Every employer who has control over wages, hours, or working conditions, must keep accurate information with respect to each employee including...name, home address, occupation, and social security number...[,] [t]ime records showing when the employee begins and ends each work period...[,] [t]otal wages paid each payroll period...[and] [t]otal hours worked during the payroll period and applicable rates of pay....

(Cal. Code Regs., tit. 8, § 11160, subd. (6)(A).) Also, the employer must furnish each employee with an itemized statement in writing showing all deductions from wages at the time of each payment of wages. (Cal. Code Regs., tit. 8, § 11160, subd. (6)(B); see also Lab. Code, § 226.) Employers on public works have the additional requirement to keep accurate certified payroll records. (§ 1776; Cal. Code Regs., tit. 8, § 11160, subd. (6)(D).) Those records must reflect, among other information, “the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journey[person], apprentice, worker, or other employee employed by him or her in connection with the public work.” (§ 1776, subd. (a).)

When an employer fails to keep accurate and contemporaneous time records, a claim for unpaid wages may be based on credible estimates from other sources sufficient to allow the decision maker to determine the amount owed by a just and reasonable inference from the evidence as a whole. In such cases, the employer has the burden to come forward with evidence of the precise amount of work performed or with evidence to rebut the reasonable estimate. (See, e.g., *Furry v. E. Bay Publ'g, LLC* (2019) 30 Cal.App.5th 1072, 1079 [“[A]n employee has carried out his burden if he proves that he has in fact performed work for which he was improperly compensated and if he produces sufficient evidence to show the amount and extent of that work as a matter of just and reasonable inference. The burden then shifts to the employer to come forward with evidence of the precise amount of work performed or with evidence to negative the reasonableness of the inference to be drawn from the employee’s evidence. If the employer fails to produce such evidence, the court may then award damages to the employee, even though the result be only approximate”], citing

Hernandez v. Mendoza (1988) 199 Cal.App.3d 721, 726-727, and *Anderson v. Mt. Clemens Pottery Co.* (1946) 328 U.S. 680, 687-88 [66 S.Ct.1187].) This burden is consistent with an affected contractor's burden under section 1742 to prove that the basis for an Assessment is incorrect.

Rangel reviewed the bid advertisement, the contract, and the applicable PWDs. She reviewed the CPRs submitted by Fata, as well as cancelled pay checks provided by Fata. She also reviewed pay stubs provided by some of the workers employed by Fata on the Project. In comparing these documents, Rangel found that the CPRs underreported the hours that workers worked on the Project, that the CPRs omitted workers who were misclassified, and that workers were paid less than the amounts indicated on the CPRs. Rangel also reviewed the training funds that Fata paid to the California Apprenticeship Council and determined that Fata underpaid training fund contributions consistent with the discrepancies in the CPRs.

Rangel detailed the following prevailing wage violations in the Assessment. These violations are substantiated by the evidence produced by DLSE at the Hearing.

Fata underreported the days and hours worked on the Project, resulting in underpayment.

The unrebutted evidence establishes that most of Fata's workers employed on the Project, as reflected in the audit that supports the Assessment, were not paid for at least some of their hours worked. Either the workers were not paid for all hours worked on any given day, or they were not paid for some of the days they performed work. Based on the information Rangel obtained from Fata and the workers she interviewed, Rangel determined that the CPRs did not accurately reflect the hours worked by these workers on the Project, and that the CPRs did not accurately reflect the amounts these workers were paid for their work on the Project. Given the conflicting information that can be gleaned from the CPRs and cancelled checks provided by Fata, the dates and numbers of hours worked reported on those CPRs must be augmented by the pay stubs and invoices provided by the workers.

Fata failed to pay his workers the required prevailing wage rate.

The un rebutted evidence establishes that most of Fata’s workers employed on the Project, as reflected in the audit that supports the Assessment, were not paid the required prevailing wage nor fringe benefits. Some of the workers were paid a flat rate of \$300.00 per day, as corroborated by the pay stubs these workers provided to Rangel, and contrary to the hours worked and hourly rate attributed to them on the CPRs. Another worker was misclassified as an Owner Operator and advised by Fata to submit invoices for payment, such that he was left off of the CPRs entirely. Yet other workers were paid less than the amounts attributed to them on the CPRs, as substantiated by the cancelled checks provided by Fata. In this respect, the CPRs can only be regarded as self-serving and false. The alleged underpayment of the applicable prevailing wage rate and the alleged nonpayment of fringe benefits is credible and un rebutted.

By virtue of evidence presented at the Hearing, DLSE met its burden of producing evidence that “provides prima facie support for the Assessment” (Cal. Code Regs., tit. 8, § 17250, subd. (a).) Given Fata’s failure to appear and participate in the Hearing, Fata has failed to carry his burden to prove the Assessment is incorrect. It must be concluded that the workers employed on the Project by Fata were underpaid in the aggregate amount of \$14,829.55.

DLSE’s Penalty Assessment Under Section 1775 Was Proper.

Section 1775, subdivision (a)(1), provides that the contractor and any subcontractor be penalized a maximum of \$200.00 “for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director” Section 1775, subdivision (a)(2)(B)(iii), states that the penalty for failure to pay the required prevailing wage rates may not be less than \$120.00 if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of section 1777.1³ Section 1775, subdivision (a)(2)(D), provides that the determination of

³ The reference in section 1775, subdivision (a)(2)(B)(iii), to section 1777.1, subdivision (c), is mistaken. The correct reference is to section 1777.1, subdivision (e). According to that subdivision as it existed on the November 11, 2016 date of the bid advertisement, a willful violation is defined as one in which “the

the Labor Commissioner as to the amount of the penalty shall be reviewable only for an abuse of discretion. Abuse of discretion by DLSE is established if the "agency's nonadjudicatory action... is inconsistent with the statute, arbitrary, capricious, unlawful or contrary to public policy." (*Pipe Trades v. Aubry* (1996) 41 Cal.App.4th 1457, 1466.) In reviewing for abuse of discretion, however, the Director is not free to substitute his or her own judgment "because in [his or her] own evaluation of the circumstances the punishment appears to be too harsh." (*Pegues v. Civil Service Commission* (1998) 67 Cal.App.4th 95, 107.)

A contractor or subcontractor has the same burden of proof with respect to the penalty determination as to the wage Assessment. Specifically, "the Affected Contractor or Subcontractor shall have the burden of proving that the Labor Commissioner abused his or her discretion in determining that a penalty was due or in determining the amount of the penalty." (Cal. Code Regs., tit. 8, § 17250, subd. (c).)

DLSE assessed section 1775 penalties at the rate of \$200.00 based on Fata's underreporting of the size of its workforce, underreporting the days and hours worked, and underpaying Fata's workers in 112 instances. The maximum penalty rate of \$200.00 per violation was chosen because DLSE deemed Fata's violations to be intentional.

The burden was on Fata to prove that DLSE abused its discretion in setting the penalty amount under section 1775 at the rate of \$200.00 per violation and in calculating the number of violations. Having not appeared at the Hearing, Fata failed to carry that burden.

Accordingly, Fata is liable for section 1775 penalties in the sum of \$22,400.00, calculated at the \$200.00 penalty rate for 112 violations.

contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or refuses to comply with its provisions."

Fata Violated Apprentices Requirements.

DLSE established its prima facie case that Fata failed to submit contract award information to apprenticeship programs that could have supplied Cement Mason apprentices, and further failed to request dispatch of such apprentices.⁴ Although Fata did employ Cement Mason apprentices on the Project, Fata failed to employ sufficient apprentices to meet the required 1:5 apprentice to journeyman ratio.⁵ Fata did not rebut the evidence of these failures. Hence, it is concluded that Fata violated section 1777.5, subdivisions (e) and (g), and the applicable regulation, section 230, for his failures to provide the requisite notice of its public work contract to applicable apprenticeship committees, to request dispatch of apprentices from those committees, and to employ sufficient apprentices to meet the required 1:5 apprentice to journeyman ratio for the craft of Cement Mason, an apprenticeable craft.

At the Hearing, DLSE sought a \$20.00 per day penalty for 456 calendar days of apprenticeship violations. DLSE measured this span of time from July 9, 2017, when Cement Mason journeymen were first employed on the Project, to October 18, 2018, the last day a Cement Mason journeyman was on the Project.

Based on the record, Fata knowingly violated the requirement of a 1:5 ratio of apprentice hours to journeyman hours for apprentices and failed to notify the applicable apprenticeship committee or request the dispatch of apprentices from it. Accordingly, Fata is liable for penalties at the rate of \$20.00 per day for 456 calendar days for a total of \$9,120.00.⁶

⁴ In this case, an applicable apprenticeship program was the Southern California Cement Masons Joint Apprenticeship Committee.

⁵ Based on the 995 hours that Cement Mason journeymen worked on the Project, 199 apprentice hours were required for the minimum ratio. Fata employed Cement Mason apprentices for a total of 168 hours, less than the minimum ratio required.

⁶ The time span from July 9, 2017, to October 18, 2018, is 466 days, not 456 days. However, because the amended Assessment notified Fata of the lesser measure of calendar days, that basis for the penalty will be adopted.

Training Fund Contributions Are Due and Owing.

Section 1777.5, subdivision (m)(1), requires contractors on public works projects who employ journeypersons or apprentices in any apprenticeable craft to pay training fund contributions to the California Apprenticeship Council or to an apprenticeship committee approved by the Department of Apprenticeship Standards. In this case, DLSE presented prima facie evidence that training fund contributions were owed. Based on her determination that Fata underreported the wages of its workers, as well as the hours and days its workers worked, and her review of the California Apprenticeship Council training fund records and the cancelled checks of training fund payments provided by Fata, Rangel found that Fata underpaid training fund contributions in the amount of \$219.54, as reflected in the amended audit. Fata failed to carry his burden to prove the Assessment was incorrect as to training fund contributions found due and is liable for payment of those funds. Accordingly, the total amount of unpaid training fund contributions owed by Fata is \$219.54.

Fata Is Liable for Liquidated Damages.

Section 1742.1, subdivision (a), provides for the imposition of liquidated damages, as follows:

After 60 days following the service of a civil wage and penalty assessment under Section 1741... , the affected contractor, subcontractor, and surety... shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment... subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid...

At the time the Assessment was issued, the statutory scheme regarding liquidated damages provided contractors two alternative means to avert liability for liquidated damages (in addition to prevailing on the case, or settling the case with DLSE and DLSE agreeing to waive liquidated damages). These required the contractor to make key decisions within 60 days of the service of the CWPA on the contractor.

First, the above-quoted portion of section 1742.1, subdivision (a), states that the contractor shall be liable for liquidated damages equal to the portion of the wages “that still remain unpaid” 60 days following service of the CWPA. Accordingly, the contractor had 60 days to decide whether to pay to the workers all or a portion of the wages assessed in the CWPA, and thereby avoid liability for liquidated damages on the amount of wages so paid.

Second, under section 1742.1, subdivision (b), a contractor would entirely avert liability for liquidated damages if, within 60 days from issuance of the CWPA, the contractor deposited into escrow with DIR the full amount of the assessment of unpaid wages, plus the statutory penalties under sections 1775. Section 1742.1, subdivision (b) stated in this regard:

[T]here shall be no liability for liquidated damages if the full amount of the assessment..., including penalties, has been deposited with the Department of Industrial Relations, within 60 days of the service of the assessment..., for the department to hold in escrow pending administrative and judicial review.

Here, Fata did not pay any back wages to workers in response to the Assessment; nor did he deposit with the Department the assessed wages and statutory penalties. Accordingly, Fata is liable for liquidated damages under section 1742.1 in the amount of \$14,829.55.

Based on the foregoing, the Director makes the following findings:

FINDINGS AND ORDER

1. The work subject to the Civil Wage and Penalty Assessment was subject to prevailing wage and apprenticeship requirements.
2. The Labor Commissioner timely served the Civil Wage and Penalty Assessment.
3. The Request for Review was timely filed.
4. The Labor Commissioner timely made its investigative file available to the contractor.

5. No back wages have been paid nor deposit made with the Department of Industrial Relations as a result of the Assessment.
6. Antoun Jean Fata, an individual doing business as Fata Construction and Development, underpaid the workers' prevailing wages in the amount of \$15,049.09, of which \$14,829.55 is attributed to unpaid wages and \$219.54 is attributed to unpaid training fund contributions.
7. The Labor Commissioner did not abuse her discretion in assessing Labor Code section 1775 penalties at the rate of \$200.00 per violation for 112 violations, resulting in the total penalty amount of \$22,400.00.
8. Antoun Jean Fata, an individual doing business as Fata Construction and Development, failed to satisfy the minimum ratio requirement for the employment of Cement Mason apprentices on the Project.
9. The Labor Commissioner did not abuse her discretion in assessing Labor Code section 1777.7 penalties at the rate of \$20.00 per violation for 456 calendar days, resulting in the total penalty amount of \$9,120.00.
10. Antoun Jean Fata, an individual doing business as Fata Construction and Development, is liable for interest on all unpaid wages, which is due and shall continue to accrue as provided in section 1741, subdivision (b).
11. Antoun Jean Fata, an individual doing business as Fata Construction and Development, is liable for liquidated damages in the amount of \$14,829.55.
12. The amount found due in the Assessment, as amended, is affirmed by this Decision, as follows:

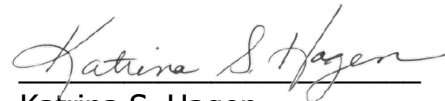
Basis of the Assessment	Amount
Wages Due:	\$14,829.55
Training Fund Contributions Due:	\$219.54
Penalties under section 1775:	\$22,400.00

Liquidated damages:	\$14,829.55
Penalties under section 1777.7:	\$9,120.00
TOTAL:	\$61,398.64

In addition, interest is due and shall continue to accrue on all unpaid wages as provided in section 1741, subdivision (b).

The Civil Wage and Penalty Assessment, as amended, is affirmed as set forth in the above Findings. The Hearing Officer shall issue a Notice of Findings which shall be served with this Decision on the parties.

Dated: 3/9/2021



Katrina S. Hagen
Director,
Department of Industrial Relations