



# Department of Justice

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District of Massachusetts**

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## **MASSACHUSETTS ASBESTOS ABATEMENT COMPANY AND OWNER SENTENCED FOR DEFRAUDING UNION BENEFIT FUNDS**

BOSTON – A demolition and asbestos abatement company and its owner were sentenced yesterday in federal court in Boston in connection with operating a “double breasted shop,” which enabled them to defraud the Massachusetts Laborers Benefit Funds (MLBF). In this case, the company utilized a second corporate entity to pay union members and thereby avoided paying union benefits to the MLBF.

SMI Demolition Inc. and Charles R. Smith, Jr., 51, of Sharon, were ordered by U.S. District Court Judge Rya W. Zobel to pay restitution of \$703,330 to the MLBF and certain union members. Smith was sentenced to six months of home detention, and both the company and Smith were placed on federal probation for two years. In January 2018, SMI and Smith pleaded guilty to two counts of mail fraud.

Smith owned and operated SMI, a demolition and asbestos abatement company, which employed members of Laborers International Union of North America (LIUNA) Local 1421. Smith operated SMI alongside a non-union shop, Southern Middlesex Industries Inc. (Southern). Smith owned and operated both entities, which employed substantially the same union work force. From October 2011 to December 2013, SMI was a signatory to collective bargaining agreements (CBAs) that required SMI to pay employees the union wage rate and to make remittances to the MLBF for monthly employee benefit payments. Since SMI and Southern constituted a single business – an arrangement known in the industry as an illegal “double-breasted shop” – the business was bound by the terms of the CBAs and was required to pay the union wage rate and remit employee benefit contributions to the MLBF. Despite knowing that this was the case, Smith shifted workers to Southern’s non-union payroll and submitted false remittance reports, thereby failing to make the required payments to the MLBF.

Smith and SMI also cheated employees out of overtime pay during the execution of a contract to demolish and abate the asbestos at an airplane hangar at Hanscom Field. Smith and SMI routinely omitted any overtime hours and paid overtime at approximately \$25 per hour –

much less than the required rate of time and one-half. As a result of this fraud, employees who worked on the Hanscom Field project were deprived of approximately \$79,956.

“Mr. Smith and SMI sought to gain an unfair competitive advantage in their industry by operating a “double breasted shop” that allowed them to reduce their operating expenses,” said United States Attorney Andrew E. Lelling. “In so doing, they violated laws intended to protect the rights of their labor force, and compromised wages and benefits that the workers in this case rightfully bargained for. We will continue to work with our law enforcement partners to vigorously investigate fraud in the labor markets.”

“EBSA will pursue corporations and executives when they engage in criminal schemes to defraud private sector benefit plans. EBSA is very pleased to have had the opportunity to work collaboratively with our law enforcement partners in the Office of the Inspector General and at the U.S. Attorney’s Office to protect plan participants,” said Carol S. Hamilton, Acting Regional Director of the Department of Labor’s Employee Benefits Security Administration.

“Charles R. Smith, Jr and SMI Demolition Inc. devised a scheme to illegally enrich themselves by avoiding paying required overtime and prevailing wage rates to union members they employed on various asbestos removal projects under collective bargaining agreements. The defendants submitted falsified timesheets that resulted in a fraud of the MLBF. We will continue to work with our law enforcement partners to safeguard the union benefit funds from those who seek to exploit it for personal gain,” said Peter Nozka, Acting Special Agent-in-Charge, New York Region, U.S. Department of Labor Office of Inspector General.

U.S. Attorney Lelling, Acting DOL-OIG SAC Nozka, and Acting DOL-EBSA Regional Director Hamilton made the announcement today. Assistant U.S. Attorney Fred M. Wyshak Jr. of Lelling’s Public Corruption Unit prosecuted the case.

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