



**New Jersey Department of Labor
and Workforce Development,
Petitioner,**

v.

**East Coast Wall systems, LLC., and
Ronald Roman Ricucci, President and,
Individually,
Respondents.**

**STATE OF NEW JERSEY
DEPARTMENT OF LABOR
AND
WORKFORCE DEVELOPMENT**

**FINAL ADMINISTRATIVE ACTION
OF THE
COMMISSIONER**

**OAL DKT. NO. LID 14147-18 &
LID 17088-19
AGENCY DKT. NO. PC-508-1015-PCS,
PC-512-1015-TIL, PC-559-1115-TIL,
PC-561-1115-PCS, GE-363-0217-COB,
GE-855-0418-LUO, CR1-693398-16, and
GE-248-0219-LUO
(CONSOLIDATED)**

Issued: December 16, 2021

The New Jersey Department of Labor and Workforce Development (Department or petitioner) served the following notices on East Coast Wall Systems, LLC., and Ronald Roman Ricucci, President and Individually (ECWS or respondents):

(1) A notice, dated January 21, 2016, served upon ECWS and Ron Roman Ricucci, President and Individually, finding violations of N.J.S.A. 34:11-56.51 and N.J.A.C. 12:62-2.1 for contracting in the performance of a public works project with a subcontractor, KS Exteriors, who was not registered with the Department under the New Jersey Public Works Contractor Registration Act (CRA), N.J.S.A. 34:11-56.48 et seq. The notice indicates that the project upon which this violation occurred was the renovation and addition at 741 Broadway, Newark, New Jersey. The certification of Senior Field Investigator, Richard Tilghman, submitted to the ALJ in support of the Department's motion for summary decision states that the property at 741

Broadway in Newark, New Jersey, upon which the subject work was performed is the Newark Community Health Center (hereafter referred to as “the Newark project”). On the basis of the violation listed above, the Department sought the collection of a penalty in the amount of \$2,500.

(2) A notice, dated August 22, 2018, served upon ECWS and Ron Roman Ricucci, President and Individually, finding violations of (a) N.J.S.A. 34:11-56.29 and N.J.A.C. 12:60-2.1 for “Records – Inaccurate Certified Payroll,” and (b) N.J.S.A. 34:11-56.31 for “Records/Obstruction.” The notice indicates that the project upon which these violations occurred was the Newark project. On the basis of the violations listed above, the Department sought the collection of penalties in the amount of \$5,000 (\$2,500 for each violation).¹

(3) A notice, dated January 21, 2016, served upon ECWS and Ron Roman Ricucci, President and Individually, finding violations of N.J.S.A. 34:11-56.51 and N.J.A.C. 12:62-2.1 for contracting in the performance of a public works project with a subcontractor, Felipe Villagomez, who was not registered with the Department under the CRA. The notice indicates that the project upon which this violation occurred was the renovation of the Hammonton Water Treatment Plant on Lincoln Street in Hammonton Township (hereafter referred to as “the Hammonton project”). On the basis of the violation listed above, the Department sought the collection of a penalty in the amount of \$2,500.

(4) A notice, dated August 22, 2018, served upon ECWS and Ron Roman Ricucci, President and Individually, finding violations of (a) N.J.S.A. 34:11-56.29 and N.J.A.C. 12:60-2.1 for “Records – Inaccurate Certified Payroll,” (b) N.J.S.A. 34:11-56.31 for “Records/Obstruction,” and (c) N.J.S.A. 34:11-56.33 and N.J.A.C. 12:60-5.1(c) for “Certified Payroll/Public Body.” The notice indicates that the project upon which these violations occurred was the Hammonton project. On the basis of the violations listed above, the Department sought the collection of penalties in the amount of \$7,500 (\$2,500 for each violation).²

¹ The August 22, 2018 notice revised an earlier, January 21, 2016 notice, which had assessed ECWS and Ron Roman Ricucci, President and Individually, for violations of N.J.S.A. 34:11-4.2 (unpaid wages/late payment), N.J.S.A. 34:11-56.27 (failure to pay prevailing wage), and N.J.S.A. 34:11-56.35 (obstruction/hindering), in addition to the two violations contained in the August 22, 2018 notice (Records-Inaccurate Certified Payroll and Records/obstruction).

² The August 22, 2018 notice revised an earlier, January 21, 2016 notice, which had assessed ECWS and Ron Roman Ricucci, President and Individually, for violations of N.J.S.A. 34:11-4.2 (unpaid wages/late payment), N.J.S.A. 34:11-56.27 (failure to pay prevailing wage), and N.J.S.A. 34:11-56.35 (obstruction/hindering), in addition to the three violations contained in the August 22, 2018 notice (Records-Inaccurate Certified Payroll, Records/obstruction, and Certified Payroll/Public Body).

(5) A notice, dated January 21, 2016, served upon ECWS and Ron Roman Ricucci, President and Individually, seeking to revoke ECWS's public works contractor registration on the basis of the same violations listed in (1) through (4) above.

(6) A notice, dated March 14, 2019, served upon ECWS and Ron Roman Ricucci, President, denying ECWS's public works contractor registration renewal application, because the contractor had failed to list on its application that it was at the time of application debarred from performing public works within the Commonwealth of Pennsylvania through May 9, 2020.

(7) A notice, dated September 4, 2018, served upon ECWS and Ron Roman Ricucci, President and Individually, finding violations of (a) N.J.S.A. 34:11-56a20 and N.J.A.C. 12:56-4.1 for "Records- No Records Provided," and (b) N.J.S.A. 34:11-56a22 for "Hindrance." On the basis of the violations listed above, the Department sought the collection of penalties in the amount of \$1,250 (\$250 for the first of the above-listed violations, and \$1,000 for the second violation).³

(8) A notice, dated September 4, 2018, served upon ECWS and Ron Roman Ricucci, President and Individually, finding violations of (a) N.J.S.A. 34:11-56a20 and N.J.A.C. 12:56-4.1 for "Records – No Daily/Weekly Hours," and (b) N.J.S.A. 34:11-4.2 for "Unpaid Wages/Late Payment." On the basis of the violations listed above, the Department sought the collection of wages in the amount of \$410.40, an administrative fee in the amount of \$41.04, and penalties in the amount of \$500 (\$250 for each violation). Included with the notice is a document entitled, "Wages Due Form," which lists one individual employee of ECWS to whom wages were determined due. That individual is Michael J. Asaoka and the wages listed as due are \$410.40.⁴

(9) A notice, dated March 6, 2019, served upon ECWS and Ron Roman Ricucci, President and Individually, finding violations of (a) N.J.S.A. 34:11-56a4 (Overtime Rate), (b) N.J.S.A. 34:11-56a20 and N.J.A.C. 12:56-4.1 (Records-No Records

³ The September 4, 2018 notice revised an earlier, February 22, 2017 notice, which had assessed ECWS and Ron Roman Ricucci, President and Individually, for violations of N.J.S.A. 34:11-56a4 (minimum wage rate), N.J.S.A. 34:11-56a4 (overtime rate), N.J.S.A. 34:11-4.2 (unpaid wages/late payment), N.J.S.A. 34:11-4.6 (no statement of deductions) and N.J.S.A. 34:20-5 (improper classification of construction workers), in addition to the two violations contained in the September 4, 2018 notice (Records-No Records Provided, and Hindrance).

⁴ The September 4, 2018 notice revised an earlier, April 30, 2018 notice, which had assessed ECWS and Ron Roman Ricucci, President and Individually, for violations of N.J.S.A. 34:11-56a4 (minimum wage rate), and N.J.S.A. 34:20-5 (improper classification of construction workers), in addition to the two violations contained in the September 4, 2018 notice (Records – No Daily/Weekly Hours, and Unpaid Wages/Late Payment).

Provided), (c) N.J.S.A. 34:11-4.2 (Unpaid Wages/Late Payment), and (d) N.J.S.A. 34:11-56a22 (Hindrance). On the basis of the violations listed above, the Department sought the collection of wages in the amount of \$3,937.50, an administrative fee in the amount of \$984.38, and penalties in the amount of \$12,000 (\$1,000, \$5,000, \$4,000, and \$2,000, respectively, for each of the above listed violations). Included with the notice is a document entitled, “Wages Due Form,” which list one individual employee of ECWS to whom wages are due. That individual is Joseph M. Myers and the wages listed as due are \$3,937.50.

Respondents requested a hearing with regard to revocation of their public works contractor registration, the denial of their public works contractor registration renewal application, and the multiple assessments for wages, administrative fees and penalties. The matters were transmitted to the Office of Administrative Law (OAL), where they were consolidated for hearing before Administrative Law Judge (ALJ) Kathleen M. Calemno.

Prior to a hearing, petitioner filed a motion before the ALJ, pursuant to N.J.A.C. 1:1-12.5, for summary decision. The ALJ granted petitioner’s motion for summary decision based, in part, on the following findings of fact:

I find that the Certifications submitted by ECWS in opposition to [the Department’s] motion for summary decision have not shown the existence of any genuine issues of material fact warranting an evidentiary hearing in this matter.

...

I find the following as undisputed facts. In connection with the Newark and Hammonton projects, ECWS contracted with unregistered subcontractors, KS Exteriors and Felipe Villagomez. As stated in the certifications of Tilghman, Cobb and Luongo [Field Investigators for the Department’s Division of Wage and Hour Compliance], ECWS hindered [the Department’s] representatives’ investigations by failing to appear for appointments, failing to respond to subpoenas, and failing to submit accurate records of wages paid. In its application submitted on January 9, 2018, ECWS and Ricucci failed to disclose its debarment in the Commonwealth of Pennsylvania and instead responded to question eleven that it had not been debarred from performing public work by New Jersey or any other state.

With regard to the Department’s assessments against ECWS for unpaid wages and related administrative fees and penalties, the ALJ concluded that the wages assessed – \$410.40 due to Asaoka and \$3,937.50 due to Myers – were justified, as were the amounts assessed by the Department for administrative fees and penalties.

As to the public works contractor registration revocation sought by the Department and the Department’s decision to deny respondent’s application for renewal of its public works contractor registration, the ALJ concluded the following:

[The Department] based its decision to revoke or deny ECWS's contractor registration for five years based on several factors under N.J.A.C. 12:62-2.4. ECWS's willful failure to [admit] its Pennsylvania debarment on its contractor registration [application];⁵ ECWS' hiring of unregistered contractors to perform work on both the Newark and Hammonton projects; and ECWS's failure to provide records and comply with [the Department's] investigations. There is nothing in the records that warrants a mitigation of [the Department's] determination. Therefore, I conclude that [the Department's] decision to suspend and revoke ECWS' registration for the full five years is appropriate.

Therefore, the ALJ recommended that the Department's enforcement actions, including a five-year revocation of ECWS's public works contractor registration, denial of ECWS's application for renewal of its public works contractor registration, and assessment against ECWS for \$4,347.90 in wages, administrative fees of \$1,025.42 and administrative penalties of \$31,250, be affirmed and that respondents' appeal be dismissed. No exceptions were filed.

Upon *de novo* review of the record, and after consideration of the ALJ's initial decision, I hereby accept and adopt the findings of fact, conclusions and recommendation contained in the ALJ's initial decision.

⁵ Here, the ALJ unfortunately, and I believe inadvertently, conflates two separate and distinct Department enforcement actions; specifically, (1) the January 2016 notice of intent to revoke ECWS's public works contractor registration certificate, and (2) the March 2018 denial of ECWS's application to renew its public works contractor registration. My concern is that when the ALJ groups together the causes to "revoke or deny" ECWS's public works contractor registration certificate and renewal application, respectively, that may cause one to conclude that the failure of ECWS to admit the Pennsylvania debarment on its January 2018 certificate renewal application was among the causes for the Department's notice of intent to revoke ECWS's public works contractor registration certificate. This is obviously an impossibility, since the misrepresentation on ECWS's renewal application occurred two years *after* ECWS had been served by the Department with the notice of intent to revoke. Nevertheless, as indicated earlier in the ALJ's initial decision, where she separately finds these two Department enforcement actions justified, there is more than sufficient evidence in the record to justify both the January 2016 revocation of ECWS's public works contractor registration certificate (i.e., ECWS's use of unregistered subcontractors on both the Newark and Hammonton public works projects, and ECWS's hindering of multiple Department investigations by failing to appear for appointments, failing to respond to subpoenas, and failing to submit accurate records of wages paid) and the March 2018 denial of ECWS's application for renewal of its public works contractor registration (i.e., failing to disclose on its renewal application that it was then currently debarred from the performance of public work in Pennsylvania).

ORDER

Therefore, it is hereby ordered that respondents pay to the Department \$4,347.90 for wages owed, plus \$1,025.42 in an administrative fee and \$31,250 in penalties. It is further ordered that respondents' public works contractor registration be revoked for the maximum period of five years. I also hereby affirm the Department's denial of respondents' application for renewal of its public works contractor registration, which occurred during the pendency of the revocation action.⁶

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum

DECISION RENDERED BY THE
COMMISSIONER, DEPARTMENT OF
LABOR AND WORKFORCE DEVELOPMENT



Robert Asaro-Angelo, Commissioner
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⁶The now sustained denial of respondents' public works contractor registration renewal application should obviate the need for respondents to surrender their public works contractor registration certificate to the Department as a result of the certificate revocation, since respondents should not currently have in their possession a valid public works contractor registration certificate to surrender. Nevertheless, in the event that respondents do still possess a valid public works contractor registration certificate, I hereby order that they immediately surrender that certificate to the Department.