



BNA, Inc.

Construction Labor

REPORT

Volume 51 Number 2537
Wednesday, August 24, 2005
ISSN 1523-5688

Page 863

News

Workers' Compensation

Contractor Pleads Guilty to Violating Tax, Prevailing Wage, Workers' Comp Laws

SAN FRANCISCO--The former owner of a Northern California painting company pled guilty Aug. 22 to failing to pay federal employment taxes for workers on a public housing project, federal prosecutors said (*United States v. Chan*, N.D. Cal., No. 3:05-CR-00504-SI, 8/22/05).

David Min Chan, who owned Spectrum Painting and Decorating in Foster City, Calif., from 1998 through 2000, admitted paying workers under the table to avoid paying \$134,715 in Social Security, Medicare, and federal unemployment taxes, the U.S. Attorney for the Northern District of California said in a statement.

Chan pled guilty evading Social Security and Medicare taxes from January 1998 through Dec. 31, 2000, and federal unemployment taxes for taxable years 1998, 1999, and 2000, according to the U.S. attorney.

The plea agreement provides for a 12-month prison sentence and three years probation. Chan agreed to pay \$114,564 in back taxes and restitution of \$190,404 for back wages and interest, plus \$14,505 in taxes on the back wages, according to the U.S. attorney.

Chan, a subcontractor on the Acorn federal subsidized housing project in Oakland, Calif., in 1999 and 2000, in the plea agreement admitted that paying workers in cash also reduced his worker's compensation insurance payments.

Wife Won't Face Prosecution

The prosecutors agreed not to prosecute the defendant's wife, who also was

listed in state records as an owner of Spectrum Painting.

Chan's attorney, Steven Freccero with Morrison & Foerster in San Francisco, described his client "as a hardworking businessman" and a family man.

"He has made some mistakes and he's acknowledging that, and he's doing everything he can with the government to try and rectify the wrongs he did and get it behind him. I think it's as simple as that," Freccero said.

Mark Lessler, spokesman for Internal Revenue Service Criminal Investigation, said when employers "don't follow the law on withholding and reporting payroll taxes for their employees, the effects can be devastating to those wage earners who find their Social Security benefits to be less than expected years later."

The criminal case followed an investigation by IRS and the U.S. Department of Labor. Chan waived indictment and was charged in a criminal information on Aug. 3.

Chan admitted submitting falsified certified payroll and prevailing wage reports to U.S. Department of Housing and Urban Development, according to prosecutors. The defendant falsely reported Spectrum employees worked fewer than 40 hours a week and that workers were being paid the prevailing wage, according to the plea agreement.

In 1999, the prevailing wage was \$33.69 per hour. In 2000, prevailing wage was \$34.44 an hour, according to the criminal charges.

Debarred for Prevailing Wage Violations

At the same time as entering a guilty plea to the two-count criminal information, Chan agreed to a three-year debarment by DOL to settle prevailing wage violations, according to the U.S. attorney.

Chan agreed to pay workers \$189,614 in prevailing back wages and overtime prevailing wages.

Chan and Spectrum Painting and Decorating were debarred by the state Division of Labor Standards Enforcement last year from Aug. 15, 2004, through Aug. 14, 2007. Chan's contractor's license was suspended for failing to comply with state worker's compensation insurance requirements, according to the California Contractors State License Board. 

By Joyce E. Cutler

Contact customer relations at: customercare@bna.com or 1-800-372-1033

ISSN 1523-5688

[Copyright](#) © 2005, The Bureau of National Affairs, Inc.

[Copyright FAQs](#) | [Internet Privacy Policy](#) | [BNA Accessibility Statement](#) | [License](#)

Reproduction or redistribution, in whole or in part, and in any form,
without express written permission, is prohibited except as permitted by the BNA Copyright Policy,
<http://www.bna.com/corp/index.html#V>

