

**MEMO**

To: Leonard J. Howie, III, Secretary  
From: Donni Turner, Director of Policy  
Re: Division of Labor and Industry's 2013 Workplace Fraud Report  
Date: January 22, 2014

The Maryland Division of Labor and Industry (DLI), a part of the Department of Labor, Licensing and Regulation, administers the enforcement of worker protection laws, including the Wage Payment and Collection law, Living Wage law, Child Labor law, Prevailing Wage law, Occupational Safety and Health law and the Workplace Fraud Act. In accordance with the Workplace Fraud Act, Section 3-920, here is the 2013 report on the administration and enforcement of the Act.

The Workplace Fraud Act was enacted on October 1, 2009 and became fully operational approximately one year after enactment of the law. The Workplace Fraud Unit (Unit) was established within DLI and works hand, in hand, with the other employment law programs. The Unit began active investigations in the third quarter of calendar year 2010 and is staffed with trained investigators, auditors, data analysts, a program administrator who manages the activities and an assistant attorney general who provides legal guidance and advice. Unit field staff has participated in construction site safety training; Unemployment Insurance (UI) investigative techniques training; Workplace Fraud legal training conducted by the Office of Attorney General (OAG) and ongoing intra-agency trainings. The Unit is special-funded through the Worker's Compensation Commission.

The Commissioner of DLI has statutory authority pursuant to the Workplace Fraud Act to investigate as necessary to determine compliance with the law. The statute provides the Commissioner with authority in only two industries; Construction and Landscaping. Investigators conduct audits of employers based on the Commissioner's statutory authority, by acting on complaints from individual workers or through referrals from business partners.

After an investigation is completed, and if misclassification is found, the Unit will issue citations to employers. All citations are forwarded to Task Force member agencies and information is exchanged to ensure compliance with all applicable labor laws. The Unit is responsible for administering the law to provide misclassified workers with protections they would not otherwise be entitled such as the benefit of anti-retaliation and discrimination laws, unemployment insurance, workers' compensation, and workplace safety and health protection.

**Workplace Fraud Unit Activity Report**

Data below represents activity conducted between January 1, 2013 and December 31, 2013:

<b>Number of Complaints Received</b>	<b>78</b>
<b>Number of Investigations Conducted</b>	<b>816</b>
<b>Number of Citations Issued</b>	<b>136</b>

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<b>Number of Informal Resolutions of the Citations</b>	<b>4</b>
<b>Number of Citations appealed to the Office of Administrative Hearings</b>	<b>0</b>
<b>Number of Requests for Judicial Review of Final Orders</b>	<b>0</b>
<b>Number of Civil Penalties Assessed</b>	<b>47</b>
<b>Total Dollar Amount of Civil Penalties</b>	<b>\$109,980</b>
<b>Total Dollar Amount of Civil Penalties Collected</b>	<b>\$32,480</b>

Specifically, the nature of complaints received by DLI included the following: 22 complaints received via telephone; eight complaints received from walk-ins; 20 complaints received via email; and 30 complaints received via U.S. postal mail. In addition, of the 78 complaints received, DLI referred 25 to the Joint Enforcement Task Force on Workplace Fraud and 51 complaints resulted in site visits. Also, DLI obtained informal resolutions/settlement agreements in four cases in which the employers agreed to come into compliance and the citations rescinded with the understanding that subsequent violations would be "knowing" violations subject to a civil penalty of up to \$5,000 for each employee who was not properly classified.

DLI's Living Wage and Prevailing Wage units are engaged in ongoing information sharing with the Unit and Task Force member agencies regarding misclassification of employees. The Unit conducts joint audits with Task Force member agencies and has made significant progress in recouping state revenue through its referrals and data sharing. The efforts of the Unit in referring employers to Task Force member agencies have increased unreported taxable wages to UI; increased withholding tax assessments due Comptroller; expanded workers' compensation coverage to benefit more employees and reviews of insurance premiums.

In fulfillment of DLI's outreach goals for calendar year 2013, the Unit in conjunction with Task Force member agencies participated in presentations and meetings with employers, government officials, and stakeholder groups to educate the public, employers and employees about Workplace Fraud, encourage voluntary compliance, and provide a forum for discussion regarding employee misclassification.