

**U.S. Department of Labor**

Office of Administrative Law Judges  
2 Executive Campus, Suite 450  
Cherry Hill, NJ 08002

(856) 486-3800  
(856) 486-3806 (FAX)



**Issue Date: 14 June 2016**

**Case Number: 2015-DBA-00029**

*In the Matter of:*

Disputes concerning the payment of prevailing wage rates, fringe benefits and overtime pay by:

**MFM CONTRACTING CORP.,**  
*Prime Contractor,*

**SAM SCHWARTZ ENGINEERING, D.P.C,**  
*1<sup>st</sup>-Tier Subcontractor,*

**SAM SCHWARTZ ENGINEERING, PLLC,**  
*1<sup>st</sup>-Tier Subcontractor,*

*Respondents*

With respect to laborers and mechanics employed  
By the 1<sup>st</sup>-Tier Subcontractor SAM SCHWARTZ  
ENGINEERING, D.P.C and SAM SCHWARTZ  
ENGINEERING, PLLC to provide services to the  
Cobblestone Reconstruction of Peck Slip from  
Pearl Street to South Street, New York, NY  
under NYC DDC Contract No. 2011441267

**FINAL ORDER APPROVING THE PARTIES' SETTLEMENT AGREEMENT AND  
CONSENT FINDINGS: AND CANCELLING HEARING AND ASSOCIATED  
REQUIREMENTS**

This matter arises under the Reorganization Plan No. 14 of 1950, 64 Stat. 1267; Davis-Bacon Act, 40 U.S.C. § 3141 *et seq.*; Contract Work Hours Safety Standards Act, 40 U.S.C. § 3701 *et seq.*; and the applicable regulations issued at Title 29 C.F.R. Parts 5 and 6. A hearing in this matter is scheduled to convene on July 27, 2016, in New York City.

On June 3, 2016, the original Settlement Agreement and Consent Findings were received in the Cherry Hill, New Jersey Office of Administrative Law Judges for my approval. Having reviewed the parties' Consent Findings, which are hereby incorporated by reference, I make the following findings:

- 1) In order to resolve this matter, and without admitting or denying the Administrator's allegations, the City of New York, through DDC, agrees to pay the sum of \$431,356.31 in back wages ("the Settlement Amount") to the employees of Schwartz listed in Exhibit A attached to the parties' agreement.
- 2) The provisions of this Consent Findings and Order relative to the payment of the Settlement Amount shall be deemed satisfied when, within 60 days of the date that an Administrative Law Judge approves this Order, the City of New York delivers a check in the amount of \$431,715.77 (equal to \$431,356.31 and \$359.46 in interest computed at the current value of funds rate determined by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)) to the Administrator for payment to the Employees for their work on the Peck Slip Project. The check shall be made payable to "**Wage and Hour-Labor**" with the notation "**Case No. 1707970**" and be sent to:

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**United States Department of Labor, Wage and Hour Division**  
**The Curtis Center, Suite 850 West**  
**170 S. Independence Mall West**  
**Philadelphia, PA 19106-3317**  
**Attention: Mary Doughty**

- 3) WHD shall distribute the Settlement Amount and interest, less the appropriate deductions for social security and withholding taxes, to the Employees, or their legal representatives, in the amounts set forth in Exhibit A. Any such amounts which remain undistributed for three (3) years because of the parties' inability to locate the employee or representative shall be deposited with the Treasurer of the United States.
- 4) Within 30 days of the date that an Administrative Law Judge approves this Order, Schwartz will provide counsel for the Administrator with a list of the social security numbers and last known addresses and telephone numbers for each of the Employees listed on Exhibit A.
- 5) The parties, the Administrator of the WHD and Respondents MFM and Schwartz, agreed that an Order disposing of this proceeding against all Respondents in accordance with these Consent Findings and Order shall have the same force and effect as an order made after full hearing (29 C.F.R. § 6.32(b)(4)).
- 6) Notwithstanding payment of the Settlement Amount, Respondents MFM and Schwartz do not admit liability for the back wages which the Administrator alleges in these proceedings to be due the Schwartz Employees, liability being expressly denied by the Respondents.
- 7) Each party agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

Accordingly, I hereby **APPROVE** the parties' Consent Findings.

The hearing scheduled for Wednesday, July 27, 2016 at 9:30 a.m. in New York City, New York and all associated pre-hearing requirements are **CANCELLED**.

SO ORDERED.



Digitally signed by Adele Odegard  
DN: CN=Adele Odegard,  
OU=Administrative Law Judge, O=US  
DOL Office of Administrative Law  
Judges, L=CHERRY HILL, S=NJ, C=US  
Location: CHERRY HILL NJ

**ADELE H. ODEGARD**  
Administrative Law Judge

Cherry Hill, New Jersey

## SERVICE SHEET

Case Name: **WAGE AND HOUR DIVISION v. MFM CONTRACTING/SAM SCHWARTZ**

Case Number: **2015DBA00029**

Document Title: **FINAL ORDER APPROVING THE PARTIES' SETTLEMENT AGREEMENT AND CONSENT FINDINGS: AND CANCELLING HEARING**

I hereby certify that a copy of the above-referenced document was sent to the following this 14th day of June, 2016:



Digitally signed by Rosaly D. Paulino  
DN: CN=Rosaly D. Paulino, OU=Legal  
Assistant, O=US DOL Office of Administrative  
Law Judges, L=CHERRY HILL, S=NJ, C=US  
Location: CHERRY HILL NJ

**Rosaly D. Paulino**  
Legal Assistant

Counsel for Trial Litigation  
Division of Fair Labor Standards  
U. S. Department of Labor  
Room N-2716, FPB  
200 Constitution Ave., N.W.  
WASHINGTON DC 20210  
*{Hard Copy - Regular Mail}*

Administrator  
Wage and Hour Division  
U. S. Dept. of Labor  
Room S-3502, FPB  
200 Constitution Ave., N.W.  
WASHINGTON DC 20210  
*{Hard Copy - Regular Mail}*

Regional Solicitor  
U. S. Department of Labor  
The Curtis Center, Suite 630 East  
170 S. Independence Mall West  
PHILADELPHIA PA 19106-3306  
*{Hard Copy - Regular Mail}*

Judith Marblestone, Esq.  
U.S. Department of Labor  
Office of the Solicitor  
201 Varick Street  
NEW YORK NY 10014  
*{Hard Copy - Regular Mail}*

Sam Schwartz, President  
Sam Schwartz Engineering  
322 8th Avenue, 5th Floor  
NEW YORK NY 10012  
*{Hard Copy - Regular Mail}*

MFM Contracting, Corp.  
335 Center Avenue  
MAMARONECK NY 10543  
*{Hard Copy - Regular Mail}*

Donald J. Carbone, Esq.  
Goetz Fitzpatrick LLP  
One Penn Plaza, 31st Floor  
NEW YORK NY 10119  
*{Hard Copy - Certified Mail}*

David Lenefsky, Esq.  
708 Third Avenue, 6th Floor  
NEW YORK NY 10017  
*{Hard Copy - Certified Mail}*

Mark H. Watson, Jr.  
Regional Administrator  
Wage and Hour Division  
U.S. Department of Labor  
The Curtis Center, Suite 850 West  
170 South independence Mall West  
PHILADELPHIA PA 19106

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*{Hard Copy - Regular Mail}*

Lewis R. Lear, Esq.  
The City of New York  
Law Department  
100 Church Street  
NEW YORK NY 10007  
*{Hard Copy - Certified Mail}*

Administrative Review Board  
U.S. Department of Labor  
Frances Perkins Building  
200 Constitution Avenue, N.W.  
WASHINGTON DC 20210  
*{Hard Copy - Regular Mail}*

10/10/15  
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