

The Contractors Critic

Reporting on Safety, Productivity and Honesty in the Construction Industry

LEONARD S. FIORE, INC., AN ABC MEMBER

Fraud, OSHA Violations & Poor Work

Fiore 'safety' record: Boss on coke? Bum checks

While there are plenty of citations by the federal Occupational Safety and Health Administration (OSHA) to choose from, these two would represent the most compelling.



The official "alleged safety or health hazards" report expanded on the complaint in a way that would be almost laughable were it not so dangerous and felonious.

Employees of Leonard S. Fiore, Inc. complained in January 1999 not only of a host of major and minor safety lapses on the Third Street Bus Transit Center jobsite in Williamsport, Pa., but also that, "The boss is on drugs as well as other employees."

"They use cocaine and marijuana while on the job, possibly putting other employees at risk of unsafe work practice."

Whether the tipsters heads-up on illicit drug use on jobsites was handled by OSHA or passed on to *Safety Record cont'd, pg 2*

Fiore build problems prolong school vacation, delay restart

A small Pennsylvania school district was forced to make major academic year schedule changes due to "unspecified problems" in a construction project in which Leonard S. Fiore was the named

general contractor, the *Altoona Mirror* reported.

Although "unspecified," the problems were severe enough to disrupt schedules at Claysburg-Kimmel High School and

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Man hurt in school accident

Recent news developments reflect poorly on the safety standards and quality control at Leonard S. Fiore jobs sites.

School officials in Altoona, Pa., for instance, reported that a construction worker was seriously injured when he plunged from the roof of a school under construction, according to Aug. 12, 2004 news reports.

Michael D. Smith, 42, of Altoona reportedly fell at least 13 feet from the Penns Manor Area Elementary School roof. He worked for Blair Roofing of Altoona, a subcontractor on the Leonard S.

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Safety Record

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local police was unclear.

More safety problems reported—many of them later corroborated by further OSHA investigations— included “crushing hazards” to icy walkways that posed unnecessary fall dangers, documents obtained through the Freedom of Information Act revealed. (*Inspection #301042735*)

One example of a serious violation OSHA inspectors confirmed involved “an unprotected side or edge from which there was a drop of more than six feet, [which] was not protected by a guardrail

system, safety net or personal fall arrest system.” (*Complaint #201365533*)

These serious safety lapses resulted in a proposed OSHA fine of \$2,600, which Fiore managed to wheedle down to \$1,690 – and the Feb. 25, 1999 check Fiore wrote to cover it still bounced.

OSHA bookkeepers returned Fiore’s bum check #064840 as “unhonored” on March 1, 1999. (*Penalty payment report #860019207*)

Embarrassed? Hardly. The unabashed Fiore was back to racking up safety violations and

paying for them with bum checks two years later.

These serious violations and the bad check to cover the fines for them, involved construction work on Central High School in Mill Hall, Pa.

The four safety screw-ups on this particular job involved citations for serious and repeat offenses for creating cave-in hazards.

In this case, OSHA cited Fiore for not shoring up 12-foot deep excavations in which employees were required to work and for setting up potential 12-foot fall dangers without using basic fall protection devices.

The fines were imposed April 24, 2001 to teach Fiore (again) not to permit such life-and-limb dangers totaled up to \$15,000, but was later reduced to \$7,000, OSHA records showed.

The June 5, 2001 check Fiore kited to supposedly cover the fine was also mailed back by OSHA marked, “unhonored.” (*Inspection #303343313*)

Finally a third “unhonored” check (#029150) was discovered dated March 30, 2004 and written in the amount of \$1,040 for penalties assessed in OSHA inspection #112663489. This, too, appeared to be for a penalty Fiore had niggled down to \$1,040 from an original citation assessed at \$1,600.

Meanwhile, perhaps the most ironic aspect of this tale of “men of unonor,” is the slogan emblazoned on Leonard S. Fiore checks: “Dedicated to Excellence.”

Yeah. Right. You bet. And hey, don’t worry; the check is in the mail.

Recent Leonard S. Fiore safety lapses

A review of the citations Leonard S. Fiore has collected in past years show OSHA inspectors proposing over \$174,000 in past fines on some 131 violations. Below are some of Fiore’s most recent safety violations. *See table at right for other OSHA actions against Fiore.*

APRIL 12, 2004- OSHA inspectors discovered a \$975 safety violation involving failure to observe stairway and ladder regulations at a Leonard S. Fiore job site in State College, Pa. (*Inspection #112663703*)

FEB. 20, 2004- Leonard S. Fiore was written up by OSHA for a violation of “Electrical, Wiring Design and Protection” rules and fined \$1,600 for the serious violation. (*Inspection #112663489*)

FEB. 5, 2004- OSHA cited Leonard S. Fiore for a repeat violation and tacked on a fine of \$1,200 for violating “Electrical, Wiring Design and Protection” rules at this Huntingdon, Pa. jobsite. (*Inspection #112663455*)

JULY 11, 2003- Leonard S. Fiore is fined a whopping \$12,200 for two serious and an “other” violation. The citations were for violating excavation and ladder rules. (*Inspection #112900162*)

OSHA Violations

The following is a list of Occupational Safety and Health Administration (OSHA) violations involving Leonard S. Fiore, Inc. The listing only represents violations incurred in the past 20 years. *The violations listed reflect initial citations and fines; the amounts may have been reduced or bargained down at later dates.* For more information see the OSHA website at: <http://www.osha.gov>

Inspection #	Date	Location	Violation(s)	Fine
112663703	4/12/04	1576 Spring Valley Rd., State College, PA	1 other	\$975
112663489	2/20/04	332 East Park Ave., Ste. #1, State College, PA	1 serious	\$1,600
112663455	2/5/04	2400 Cassady Ave., Huntingdon, PA	1 repeat	\$1,200
112900162	7/11/03	1576 Spring Valley Rd., State College, PA	1 serious, 2 repeat	\$12,200
112986146	4/28/03	Off Pollock Rd., University Park, PA	1 serious, 1 other	\$1,625
305834558	10/22/02	1300 Fox Hollow Rd., State College, PA	1 serious	\$1,300
112993308	6/26/02	1930 Cliffside Dr., State College, PA	2 serious	\$3,250
112662846	5/20/02	1281 Shortlidge Rd., State College, PA	1 serious	\$2,800
304185788	1/14/02	Garvey Manor, Hollidaysburg, PA	2 serious, 2 other	\$1,950
112662606	12/4/01	North Atherton St., State College, PA	1 serious	\$900
112994314	10/31/01	Off 17th St., Huntingdon, PA	1 serious	\$1,300
112994843	7/20/01	North Atherton St., State College, PA	1 serious, 1 repeat	\$22,800
303705297	2/21/01	5990 Route 6n, Edinboro, PA	1 serious	\$1,625
303343313	2/14/01	Central High School, Mill Mall, PA	2 serious, 2 repeat	\$15,000
112659750	2/7/01	243 South Allen St., State College, PA	1 repeat, 1 other	\$8,000
303705115	2/01/01	5990 Route 6n, Edinboro, PA	1 serious	\$875
112902093	8/25/00	103 Innovation Blvd., State College, PA	1 other	
112901996	7/27/00	500 Porter Rd., State College, PA	1 repeat	\$4,000
112895198	11/23/99	Pennsylvania State University, State College, PA	1 other	
110030186	7/16/99	140 West 3rd St., Williamsport, PA	1 serious, 2 repeat	\$25,200
116203647	4/21/99	Shield Building, University Park, State College, PA	2 serious, 2 other	\$1,950
116202987	4/5/99	29th St. & Blair Ave., Huntingdon, PA	2 serious, 1 repeat	\$5,600
301042735	1/22/99	Bus Transit Center, 3rd St., Williamsport, PA	2 serious, 2 other	\$2,600
116201229	11/9/98	Nittany Mall, State College, PA	2 serious, 1 other	\$3,025
116199167	6/19/98	Park Forrest Middle School, State College, PA	1 other	
109024588	8/15/94	Curtain & University Park Dr., State College, PA	1 serious	\$1,300
109022475	5/2/94	Off Shorlidge Rd., State College, PA	1 other	\$500
109027615	6/28/93	461 Beaver Ave., State College, PA	1 serious	\$975

OSHA cont'd, page 4

OSHA Violations

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Inspection #	Date	Location	Violation(s)	Fine
102604725	5/31/90	277 West Beaver, State College, PA	4 serious, 2 willful, 2 other	\$20,700
102869005	7/27/89	126 High St., State College, PA	3 serious	\$1,260
100396845	4/28/89	Martin St., Bellwood, PA	3 other	
000745737	4/26/89	Penn State Campus, Altoona, PA	5 serious, 1 other	\$1,610
100931666	11/22/88	Route 144 & Route 150, Bellfonte, PA	10 serious, 1 repeat, 1 other	\$5,900
100392463	7/29/88	Martin and Herman Dr., State College, PA	1 other	
000765214	7/15/88	400 Block, S. Allen St., State College, PA	8 serious, 1 repeat 3 other	\$11,800
000765545	11/4/87	1300 Fox Hollow Rd., State College, PA	1 serious	\$210
000817361	12/5/86	VA Hospital, Altoona, PA	1 other	
000810986	10/22/86	120 Burrowes St., State College, PA	1 serious, 1 repeat	\$2,000
000810648	7/9/86	Route 26 & Porter Ave., State College, PA	1 repeat	\$480
000810531	6/25/86	Off N. Atheraton St., State College, PA	1 serious, 2 other	\$160
100414937	5/22/86	Pollock Rd., State College, PA	2 other	
002815744	10/1/85	Furnace St. Exit, Cumberland, MD	1 other	
000603852	8/29/85	216 W. College Ave., State College, PA	1 other	
000607838	7/5/85	Off Route 322e, Lewistown, PA	1 serious, 3 other	\$360
000607887	6/27/85	206 W. College Ave., State College, PA	1 other	
000607721	5/15/85	Route 322 & Pollak Rd., State College, PA	1 other	
002830842	3/18/85	Furnace St. Exit, Cumberland, MD	1 serious	\$280
001147081	8/9/84	Owen Illinois Glass Container Div., Brinkville, PA	DEATH, 1 serious	\$640
001144518	7/12/84	Airport Rd., State College, PA	1 willful	\$8,000
001117597	6/15/84	Orchard Park Lots 71 & 72, State College, PA	3 serious, 2 other	\$1,170
001139567	4/23/84	Hastings & Bigler Rd., State College, PA	3 other	
001764521	4/12/84	North Ashwicken Ct., State College, PA	1 serious, 3 other	\$180
000191759	3/7/84	Navy/Marine Corps Reserve Ctr., Edensburg, PA	1 other	

Total proposed fines surpass \$174,000

*131 total OSHA violations, 64% serious, repeat or willful violations
5 accidents occurred within the last 3 years alone!*

Bid dispute shows how Fiore fiddles

A bidding dust-up over whether contracts should go only to the lowest bidder without regard to who might be the best and most responsible contractor for the job, gripped Hollidaysburg, Pa.

Old folks hoping to eke their last days in a nice hospice lost out to Leonard S. Fiore and its low-balling ways.

The seamy conflict surfaced in a May 30, 2001 *Altoona Mirror* article relating how Leonard S. Fiore whined when Blair County (Pa.) commissioners entered into a multi-

quality of past work.

Leonard S. Fiore, which had submitted a bid that was almost \$1 million less than other bids, howled foul. It claimed that the project was in part publicly funded, commissioners were compelled to choose its bid, no matter how much quality it shaved off the final product or how bad the bidder's record was.

The county commissioners argued that the fact that the project was jointly public and private, other applicable laws allowed greater discretion and wiser choices.

Fiore claimed that the commissioners were compelled to choose its bid, no matter how much quality it shaved off the final product or how bad the their record was.

million dollar contract to construct the 165,000 square foot Garvey Manor Nursing Home.

The commissioners and project backers including the Altoona-Johnstown Diocese mulled the competitors and picked the bid from a consortium of builders' business consortium that included contractor Ralph Albarano of Duncansville, Pa. and Benchmark Contractors of Brownstown, Pa.

The facility was to accommodate 150-180 people, according to reports published in the *Altoona Mirror*.

Facility administrator, Sister Joachim Anne Ferenchak, said at the time the bid was awarded the choice had been based on price and other factors. "Other factors" often cited in such bid situations usually include safety records and

How the battle played out was evidenced in an announcement Leonard S. Fiore later published.

"Garvey Manor and Leonard S. Fiore, Inc. are pleased to announce that they entered into a written contract to build a new elder care facility consisting of both assisted living and long term nursing care for area residents," it stated.

Further down in the paid message, Leonard S. Fiore sought to both clear up and confuse the reader.

It wanted to "clear up certain misconceptions that exist in some parts of the community. First, some have thought that public funds would be used for this project. No public funds will be used for this project."

It continued, "Second, some believe, mistakenly, that the project

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Accident

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Fiore job.

Smith was helicoptered to a hospital in Johnstown, Pa. where his condition was not immediately reported, the *Indiana-Gazette* reported.

Fiore must eat floor damage cost at a school district

Leonard S. Fiore will have to bite the bullet for extensive damages suffered at a school construction site, the *Altoona Mirror* also reported on July 22, 2004.

The Huntingdon Area High School was being renovated earlier this year when the gymnasium floor was damaged after temporary plastic sheets blew away in a rain storm.

Portions of the water-soaked floor would have to be replaced. Costs of the replacement were not available at the time, but school Superintendent, Harvey Hann, "indicated that L.S. Fiore would bear the expense."

Bid Dispute

Cont'd from pg 5

will be paid for with monies received from the Diocese of Altoona-Johnstown. That is not true. The new facility will be constructed using bank loans borrowed by Garvey Manor... as well as Garvey Manor's investors."

The apparent result of Leonard S. Fiore's low-bid politicking?

The diocese apparently backed out when it saw the project going downhill. The public lost respectable business partners. Different bankers got to profit. And scores of grandmother and grandfathers now get to while away their final days in a "cheaper" nursing home.

Leonard S. Fiore has a dark history of hard-ball politicking the bid business.

In July 2002 it became embroiled in controversial scandal over the issue of whether competitors should be able to peek at competitors bids, the *Patriot-News* reported.

"Leonard S. Fiore Inc. wanted Commonwealth Court to stop

Delays

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Elementary School, the *Mirror* reported in August.

"The last day of school and graduation will be pushed back a week to June 9 and 12, respectively," district Superintendent James O'Harrow told the public.

The district did not at first anticipate further problems, but as the summer wore on and the "unspecified problems" with the construction remained unsolved,

Alexander Constructors from building a \$40 million science and chemistry building at Penn State University after learning Alexander failed to submit all of the required documents for a Dec. 5, 2001 bid opening," the *Patriot-News* reported.

Alexander Constructors and Leonard S. Fiore had submitted bids of \$20.39 million and \$20.79 million, respectively. Leonard S. Fiore immediately demanded a look-see at Alexander's bid. And, poring over it, "Fiore discovered that its competitor had failed to sign its bid and included no insurance to support its efforts, two basic requirements in bid openings," the paper reported.

The bid was awarded to Alexander Constructors, on the grounds that rules allowed the contract to be awarded so long as "the person awarded the contract has not acted fraudulently or in bad faith," the paper reported.

The court rejected Leonard S. Fiore's appeal, it was reported.

opening days for the next school year at the two schools were shoved back to Aug. 31 and then to Sept. 7, the school district announced.

The school district's sports schedule for the Claysburg-Kimmel Bulldogs remained on track, but district officials still felt compelled to apologize for the "inconvenience."

Apologies notwithstanding, the *Delays cont'd, pg 7*

Fiore settles in wrongful death lawsuit

This lawsuit filed Jan. 14, 1993 in the Cambria County (Pa.) Court of Common Pleas, alleged that on March 18, 1991, 32-year-old Samuel Calvin, an ironworker employed by V.M. Ruggery Steel Erection Co., fell to his death while working on a limestone pulverizing plant being worked on in Edensburg, Pa.

V.M. Ruggery was a subcontractor for Fiore, and was carrying out work on a building for New Enterprise Stone. Calvin's fatal injuries allegedly resulted from "negligence and carelessness" on the part of the New Enterprise Stone and Fiore, the plaintiff claimed.

The wrongful death suit alleged that "Samuel Calvin was on the roof of the building... [when] at or about 11:30 A.M., [Jan. 23, 1991]... [he] fell from the roof of the building to the ground level approximately sixty six feet below." He suffered fatal injuries and was later declared dead at Conemaugh Valley Memorial Hospital. Mrs. Calvin was pregnant with the couple's first child at the time of her husband's death.

A settlement was ordered Aug. 27, 1996 in which Fiore was ordered to pay the widow \$75,000. (*Case #1993-129*)

Fiore's self-inflicted legal woes

The following lawsuits are just a sampling of Leonard S. Fiore's voluminous and varied legal problems.

Kathleen Green v. John C. Haas Associates, L. S. Fiore and Leonard S. Fiore, Inc., Case #2004-304; Filed 1/29/04, Centre County (Pa.) Court of Common Pleas

Attorneys for the plaintiff, Kathleen Green, requested a summons be issued in the recently filed civil action against Fiore.

Johnstown Housing Authority v. Leonard S. Fiore, Inc., Case #2000-46; Filed 6/5/00, Cambria County (Pa.) Court of Common Pleas

Fiore was the general contractor in the \$1.6 million "South Fork Development," which called for the construction of 15 three-bedroom homes for low income buyers in South Fork, Pa. The project commenced in September 1995 with completion slated for February 1997. When new residents moved in they discovered alleged "nail pops" in resilient tile floors and other damages.

The housing authority conducted an inspection in November 1999 which produced an expert opinion that concluded it would cost approximately \$14,590 to fix the damage. The housing authority sued Fiore, alleging breach of contract and negligence. Fiore denied the allegations in a 50-point letter, and asked the court to dismiss the charges. Other factors, including the actions of persons not employed by Fiore, contributed to the damages, they claimed.

Charles and Lynn Ertter, d.b.a. as C&L Installers v. Leonard S. Fiore, Inc., Case #1999-1122; Filed 4/12/99, Cambria County (Pa.) Court of Common Pleas

The Ertters sued Fiore for allegedly failing to pay a balance of \$28,120 owing on the installation of carpeting and ceramic flooring. The matter was settled out of court for an undisclosed sum, according to a civil discontinuance request filed Aug. 17, 1999.

Judith Ann Marks v. Wal-Mart Stores, Inc., (later amended to include) Leonard S. Fiore Construction Co., Case #1997-0557; Filed 1/31/97, Cambria County (Pa.) Court of Common Pleas

Marks, a disabled person, initiated a lawsuit against Wal-Mart and Fiore in which she alleged that she fractured her neck when her three-wheeled Amigo cart tipped over as she exited the Johnstown Wal-Mart store at about 8 p.m. on Oct. 25, 1996. She filed suit, seeking a sum greater than \$25,000 and demanding a jury trial. The defendants denied her claims.

During the course of the suit, Marks' vision was evaluated to determine

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Delays

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delays hit the already disadvantaged school district hard.

Claysburg is a small town in rural Blair County, Pa. The town's population is about 1,500.

The district's two schools have a total enrollment of 939 students — 417 in the aging brick high school and 522 in the somewhat younger elementary school.

The district reported a professional staff of 61 full-time teachers.

The impact of the extra costs and further delays cause by Fiore's "unspecified problems" fall especially hard on the district's many disadvantaged students from poor families.

Fifty-three percent of the elementary school students come from low-income families, statistics derived from sources indicated. Approximately Forty-Four percent of the high school students do, the district reported.

And the district itself hasn't been fairing too well, either. Most recently available audit statistics show a 2001-2002 district budget of \$7.6 million, down from \$7.9 million in 1998-1999.

Thus the repeated change order bills from L. S. Fiore the district recently shelled out
Delays cont'd, pg 10



Litigation

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whether her eyesight was sufficient to negotiate her way. The case was settled out of court, according to an April 29, 1999 statement declaring the case “discontinued, and forever ended.”

Bay Harbour Electric, Inc. v. Leonard S. Fiore, Inc., Case #99-GN 3564; Filed in 1999 in Blair County (Pa.) Court of Common Pleas

Bay Harbour Electric sued Fiore alleging that on Nov. 21, 1996, Fiore had subcontracted Bay Harbour Electric to perform about \$427,500 worth of electrical work on Wal-Mart store No. 2540 in Clarion, Pa., but failed to pay an outstanding sum of \$15,998 due on the project since June 15, 1998.

Court documents dated Dec. 16, 1999 showed that the matter was settled for an undisclosed sum and discontinued.

Crown American Properties, L.P. v. Leonard S. Fiore, United Foundations; Case #1133 GN 98; Filed 2/23/98, Blair County (Pa.) Court of Common Pleas

It appears Crown American had the Blair County Sheriff’s Department serve a summons on Fiore and United Foundations with the next available document showing the parties settled the issue between themselves on Aug. 23, 1998 without disclosing the terms.

Adam J. and Donna J. Craig v. Ambrose Electric Co., Leonard S. Fiore, Inc.; Case #1995-771; Filed 3/1/95, Cambria County (Pa.) Court of Common Pleas

The Craigs sued Fiore and Ambrose Electric for an amount in excess of \$25,000 for injuries Mr. Craig, a tile floor cleaner, allegedly suffered Feb. 19, 1994 when an electrical conduit fell on him while working at a project at the County Market in Richland Township.

A motion filed by the defendants Aug. 26, 1996 asking that the civil suit be dismissed was denied.

Sean Patrick Allen, et al v The Altoona Hospital, L.S. Fiore Inc., et al; Case #90 C.P. 2006 ; Filed 2/7/91; Blair County (Pa.) Court of Common Pleas

U.S. Postal Service Carrier Allen sued the Altoona Hospital and Fiore both as a business and as a person, for an unstated sum for injuries Allen sustained Dec. 5, 1988 when a bank of unsecured service boxes, which Fiore detached and failed to remount or post warnings, subsequently fell on Allen.

Other Leonard S. Fiore case notes

Carpenters Combined Funds Inc. v. Leonard S. Fiore, Inc., Bel-Air Installation Inc., et al; Case #99-MC-331; filed 10/21/99; U.S. District Court Western District of Pennsylvania

Leonard S. Fiore Sr., Leonard Fiore, Jr., et al v. Oakwood Plaza Shopping Center, Case #3094/1989; filed 2/9/89; New York County Civil Courts Index

Leonard S. Fiore Sr., Leonard Fiore, Jr., et al v. In Re Take Depositions; Case #20376/1989; filed 9/20/89; New York County Civil Courts Index

Once burnt, yet never shy, Fiore still fiddles with pay

Way back in the early 1980s, skilled workers at three Pennsylvania public works projects complained that Leonard S. Fiore, Inc. was cheating them out of their fair wages.

The complaint led to a payroll audit by state authorities which concluded that, yes, indeed, Fiore had failed to pay the workers on the projects at the agreed-upon rates.

Fiore was accused of using

floating classification designations – labeling a worker a carpenter one day and a plain laborer the next day — as ruse to circumvent prevailing wage laws.

The complaint eventually led to a controversial 1991 state Supreme Court split decision in *Leonard S. Fiore, Inc. v. Commonwealth of Pennsylvania, Department of Labor and Industry*, which to this day

disadvantages skilled construction industry workers and elicits debate in the workplace among industry observers.

The 1991 decision essentially determined that, while there was ample evidence to show Fiore was gypping its workers, there insufficient evidence to prove the family-owned business was doing it “intentionally.”

The carefully devised decision by the business-friendly court went Fiore’s way, that is true. But the accompanying investigations and related opinions put executives at the 150-employee, \$52 million-a-year firm on notice that, basically, “it’s not nice to fool Mother Nature.”

The initiating complaints from workers surfaced in the 1980s. It led to an audit by the state’s Prevailing Wages Division. The audit confirmed the pay shortage, but the company fought the findings the best it could.

By August 1986, Fiore and the Pennsylvania Department of Labor and Industry had worked out a proposed deal which called for Fiore to pay a small sum of money to the kernel group of complaining workers in exchange for a finding that there was no intentional violation of the Prevailing Wage Act.

A hearing was held on the issue on Aug. 15, 1986. The three affected workers showed up to represent their case, but Fiore proved a no-show.

At the next main hearing, Richard
Pay Cont’d, pg 10

Who is Leonard S. Fiore?

Being the busy little bees they are, the Fiore family has operated under at least seven corporate monikers. The same core family group has pursued profit under the following, sometimes interlocking, aliases:



Leonard S. Fiore, Inc.

Leonard S. Fiore, Sr., Chairman; Mary Fiore, Shareholder; Leonard S. Fiore, Jr., President; Richard F. Fiore, Vice President, Secretary; Michael A. Fiore, Treasurer

Fiore SC, Inc.

Leonard S. Fiore, Jr., President; Richard F. Fiore, Secretary; Michael M. Fiore, Treasurer

Fiore Financial Resources, Inc.

Leonard S. Fiore, Jr., President; Michael Fiore, Vice President, Secretary; Richard Fiore, Treasurer

Fiore Brothers, Inc.

Leonard S. Fiore, Jr., President; Richard Fiore, Secretary; Michael Fiore, Treasurer

Fiore, G. P., Inc.

Leonard S. Fiore, Jr., President; Richard F. Fiore, Secretary; Michael A. Fiore, Treasurer

Fiore (Sheetz) Limited Partnership

General partner, Fiore, G. P., Inc.

Fiore Development Limited Partnership

General partner, Fiore, G. P., Inc.

Pay

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S Fiore testified. Under cross-examination, Fiore painted a picture of a firm employing a “multi-classification” system that allowed the company to shift workers from one tasks and craft-designation to another.

This “system” allowed the company to adjust the workers’ wages up and down, from day to day, more or less at will. No one was strictly a carpenter, a welder, or a laborer, Richard Fiore explained.

Fortunately for the company, welders and carpenters often discovered they had worked primarily in the laborer classification when payday rolled around.

The hearing officer concluded that Fiore had violated the Prevailing Wage rule, but not intentionally.

When state Labor and Industry Secretary, Harris Wofford, reviewed the hearing officer’s decision he concluded otherwise.

Fiore’s “multi-classification”

scam led to poor record-keeping and ultimately allowed Fiore to violate the prevailing wage law. The company was therefore barred from bidding on any more state-funded construction projects.

Fiore appealed this decision and asked for the debarment to be suspended while it fought it out.

The request for suspension was denied and, in the end, a decision by an even higher state court panel affirmed the decision that the violation was intentional.

Fiore then asked the Supreme Court to suspend the debarment while it appealed the secretary’s decision to the state Supreme Court. The request was granted.

State Supreme Court justices heard the arguments in this case in September 1990, and finally handed down its split decision Jan. 17, 1991.

As was said, the high court concluded while it was blatantly clear that Fiore had violated the

wage law, there was not enough hard evidence and smoking guns to prove it acted intentionally.

A dissenting judge noted forcefully, however, that in his opinion the company had to have known that some of the workers were working in one classification, yet were being paid at a lower classification.

While Fiore “won” the case, experts continue to argue about the controversial decision, in part, at least that the justices had based their arguments on evidence law, not a strict interpretation of the law itself.

In other words, the court and Fiore had managed to recreate in the precincts of Pennsylvania’s highest court the old vaudevillian courtroom skit in which the judge tells the mocking defendant, “You didn’t do it, and don’t do it again.”

Delays

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sting all the more.

Extra charges district officials recently approved for Fiore included:

- “\$10,335,75 to repair the existing fascia in the gymnasium”
- \$8,513 “to change the glazed block at the exterior restroom to epoxy painted regular block,” and additional sums to “replace rotten floor boards at the gymnasium.”

Corporate Information

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LASER: Praised by Faint Damnation

Jim Pease apparently never tires of reminding HVAC contractors that the best way to respond to LASER's criticisms is to straighten their act. In a 2003 issue of the ABC of Wisconsin newsletter, Mr. Pease reiterated his expensive advice that, "The best preparation for LASER is for an employer to get its house in order."

"Damned by faint praise" is a timeless expression summarizing the tactic of praising someone so modestly as to cast doubt on both the sincerity and intent of the compliment. How LASER has had the good fortune of experiencing the reverse: it seems we've been "praised by faint damnation."

We point to a recently discovered opinion column by Jim Pease published way back on June 13, 2001 in the Wisconsin-based construction industry news organ, *The Daily Reporter*. (More later on this tardy discovery.)

Officials of the construction companies we report on sometimes criticize LASER. By and large, we ignore them. The occasional complaint is only to be expected, considering the natural antipathy between the watchdog and the watched. After all, the alert bulldog can generally rely on poor reviews from the cat burglar.

If the criticism has merit — happily a rare occurrence — we respond. Otherwise, we ignore them.

However, in this case, because Mr. Pease's article is so unintentionally complimentary to LASER's goals and services, we think it deserves special mention.

In his article, Mr. Pease first lays out his premise: research organizations — also known as "think tanks" — compile data on specific issues, analyze the data, write reports and distribute them to concerned parties.

Mr. Pease, who is affiliated with construction industry management, concludes that some of these groups are "pro-union," because the final reports issued are not always flattering to non-union construction employers. He calls these reports, "attacks."

You can tell by the title, "Are you ready for LASER?" he is particularly worried about us.

He correctly points out that the information we collect on companies includes:

- complaints, citations, charges and

lawsuits involving the employer

- claims that prevailing wage obligations have not been met
- Fair Labor Standards Act, tax, licensing and safety violations
- criminal activities; names and addresses of current and former employees
- past and present clients
- a list of all hazardous or toxic materials used
- copies of all financial statements,

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profits and losses, liabilities and inventories of vehicles and equipment

- environmental permits issued to or applied for by the employer
- complaints of poor workmanship, delays, mistakes and overruns on job sites
- breakdowns of all minority employees versus nonminority employees by craft, man-hours, hourly wage, health benefits and pension benefits
- reports of fires, accidents and injuries
- bankruptcies of the employer or any of its owners or officers
- violations of immigration laws

"An example of one of these pro-union research organizations is already operating on the borders of Wisconsin and may soon be operating within the state. It's called Labor and Safety Employer Research or LASER," Mr. Pease warns.

Mr. Pease's implied argument seems to be that the mere act of broadcasting facts taken from the public record to the wider community so informed decisions can be made is somehow reprehensible.

Reprehensible, perhaps, in the same way a watchdog barking at a midnight prowler constitutes a public nuisance because we also wake the neighbors.

"Attacks by these research groups can be very insidious because a targeted employer may not know the attack is occurring," Mr. Pease alleges.

He goes on to claim that, "Organizations like LASER hide behind a shroud of secrecy."

Mr. Pease is not being entirely frank here. He knows that, in the interests and spirit of fairness, accuracy and full disclosure, LASER has a strict policy of

providing notice well in advance of everything we expect to report about the employer. We give the parties ample time to respond and, if necessary, point out any errors that may have been made.

Mr. Pease reveals this later in his article when he advises his construction industry readers to make sure they "Carefully review LASER's correspondence..."

Those most interested in maintaining secrecy are clearly the employers with all those "complaints, citations, charges and lawsuits" hidden in their closets.

And here we'd like to point out the sweet irony of Mr. Pease's accusation. We only learned about his article in May 2003, two years after it was first published in the construction industry newspaper.

Had he followed our policy of open disclosure in the interests of fairness and accuracy, we would have gotten a letter from him and a copy of his article several weeks before June 1, 2001. But that is water under the bridge.

Where we take the greatest pleasure in Mr. Pease's left-handed compliments is in his final recommendation to construction employers on dealing with what he ominously calls, "The threat of LASER."

"The best preparation for LASER," Mr. Pease says, "is for an employer to get its house in order and to avoid the type of conduct that LASER can use in an apparent effort to destroy an employer's reputation. An employer should develop and maintain a serious safety program designed to eliminate violations of all safety laws. Pay practices should be administered to strictly comply with federal and state wage and hour laws and federal, state and local prevailing wage laws. Violations of environmental, immigration, labor and employment, taxation and other business laws should be avoided. And, positive personnel practices that encourage a diverse work force that is treated with respect should be developed and implemented by the employer. If these things are done, LASER won't have anything to write about." (emphasis added)

We wholeheartedly agree. It is, indeed all they have to do.

So in the final analysis, it appears LASER may have had some influence upon the construction industry over the last decade — and that impact seems to be for the good. Of that we are proud.

Mr. Pease, we offer you our belated thanks. And, please keep up the good work.

Source Notes

LITIGATION:

Kathleen Green v. John C. Hass Associates, L.S. Fiore, et al.
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Johnstown Housing Authority v. Leonard S. Fiore, Inc. Case #2000-46. 1/5/00. Cambria County Court of Common Pleas, PA.

Carpenters Combined Funds, Inc. v. Leonard S. Fiore, Inc., et al.
Case #99-MC-331. 10/21/99. U.S. District Court, Western District of PA.

Charles Ertter, et al v. Leonard S. Fiore, Inc. Case #1999-1122. 4/12/99. Cambria County Court of Common Pleas, PA.

Bay Harbour Electric, Inc. v. Leonard S. Fiore, Inc. Case #99 GN 3564. Blair County Court of Common Pleas, PA.

Crown American Properties, L.P. v. Leonard S. Fiore d.b.a.

Leonard S. Fiore, United Foundations. Case #1133 GN 98. Blair County Court of Common Pleas, PA.

Judith Ann Marks v. Wal-Mart Stores, Inc., Leonard S. Fiore Construction Company. Case #1997-0557. 1/31/97. Cambria County Court of Common Pleas, PA.

Adam J. Craig, et al v. Ambrose Electric Co., Leonard S. Fiore, Inc. Case #1995-771. 3/1/95. Cambria County Court of Common Pleas, PA.

Janice A. Calvin, as administratrix for Samuel Calvin v. Leonard S. Fiore, et al. Case #1993-129. 1/14/93. Cambria County Court of Common Pleas, PA.

Sean Patrick Allen, et al v. The Altoona Hospital, L.S. Fiore Construction Co., et al. Case #90 C.P. 2006. 2/7/91. Blair County Court of Common Pleas, PA.

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www.osha.gov

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Inspection #112994843. 7/20/01. State College, PA.

Inspection #303705297. 2/21/01. Edinboro, PA.

Inspection #303343313. 2/14/01. Mill Hall, PA.

Inspection # 303705115. 2/1/01. Edinboro, PA

Inspection #110030186. 7/16/99. Williamsport, PA.

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School Board Meeting Minutes. 12/3/03. <http://cksd.k12.pa.us/Board/minutes/dec3.htm>

Pennsylvania Auditor General Audit on Claysburg-Kimmel School District. 2/13/04. <http://www.auditorgen.state.pa.us/Department/Press/s-ClayKim.html>

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ARTICLES:

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Altoona Mirror.

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The information contained in The Contractor's Critic does not reflect a complete history of the business practices of Leonard S. Fiore, Inc. and/or its related companies. LASER is publishing information that contractors do not and will not publish about themselves. LASER has relied on the public record to present this information to the public in an effort to promote safety, productivity, honesty, and environmental compliance in the construction industry.

Leonard S. Fiore, Inc. has been given the opportunity to review this material for errors and inaccuracies. As of publication, Leonard S. Fiore, Inc. has not made any suggestions or refuted any of the information in this publication.

LASER, Inc. will continue to seek and publish additional data.

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Visit LASER's website at www.laser-inc.com