


Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works TEL: (909) 383-4962	Gavin Newsom, Governor 
DATE: December 22, 2022	In Reply Refer to Case No: 40-72584-853

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Fullerton	Work Performed in County of Orange	
Project Name Commonwealth Ave Reconstruction-BALCOM	Project No. 44037-1A	DIR Project ID No. 343318
Prime Contractor Big Ben, Inc.	CSLB License No. 774444	Contractor Registration (PWCR) No. 100007466
Subcontractor(s) 0	CSLB License No.	Contractor Registration (PWCR) No.
Second or Third-tier Subcontractor, if applicable	CSLB License No.	Contractor Registration (PWCR) No.

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, compliance with the apprenticeship standards found in Labor Code section 1777.5, or compliance with the registration requirements set forth in Labor Code section 1725.5, the Labor Commissioner has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor(s) identified above. In accordance with Labor Code section 1741, the Labor Commissioner hereby issues this Civil Wage and Penalty Assessment.

TOTAL ASSESSMENT:	<u>\$33,388.40</u>
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The nature of the violations of the Labor Code and the basis for the assessment are as follows:
 Wage Violations: Big Ben Inc. misclassified workers and failed to pay at the correct prevailing wage rate on the project identified above in violation of Labor Code section 1775. Applicable penalty was mitigated from \$200.00 to \$120.00 per violation.

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813, if applicable.

The Labor Commissioner has determined the total amount of **wages** due is: \$14,433.40

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section **1775** is: \$16,680.00

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section **1813** is: \$2,275.00

(continued on next page)

STATE LABOR COMMISSIONER
 By Brian Ayala
 Brian Ayala
 Industrial Relations Representative

Apprenticeship Violations: N/A

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1777.7 is: \$0.00

Labor Code Section 1776 Violations: N/A

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1776(h) against _____ is: \$0.00

Public Works Contractor Registration Violations: N/A

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1771.1 against
General contractor is: \$0.00
Subcontractor is: \$0.00
Second-tier subcontractor is: \$0.00
Third-tier subcontractor, if applicable is: \$0.00

Please refer to page 6 for specific withholding obligations pertaining to these amounts.

(continued on next page)

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

Labor Commissioner - State of California
Civil Wage and Penalty Assessment Review Office
PO Box 32889
Long Beach, CA 90832

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties, including interest on all due and unpaid wages pursuant to Labor Code section 1741(b), must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825-0196

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Brian Ayala at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
464 W Fourth Street, Room 348
San Bernardino, CA 92401

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid.

Notwithstanding the above, in accordance with Labor Code section 1742.1(b), there shall be no liability for liquidated damages if **the full amount of the assessment or notice, including penalties**, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

The full amount of the assessment that should be deposited is:

\$33,388.40

Deposits must be made by check or money order payable to the Department of Industrial Relations with a cover letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

Department of Industrial Relations
Attention Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$14,433.40</u>
Training Funds Due:	<u>\$0.00</u>
Penalties Due Under Labor Code section 1775:	<u>\$16,680.00</u>
Penalties Due Under Labor Code section 1813:	<u>\$2,275.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code section 1776(h):	<u>\$0.00</u>
Penalties Due Under Labor Code section 1771.1:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$33,388.40</u>

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$14,433.40</u>
Training Funds Due:	<u>\$0.00</u>
Penalties Due Under Labor Code section 1775:	<u>\$16,680.00</u>
Penalties Due Under Labor Code section 1813:	<u>\$2,275.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$0.00</u>
Penalties Due Under Labor Code section 1776(h):	<u>\$0.00</u>
Penalties Due Under Labor Code section 1771.1:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$33,388.40</u>

Distribution:
Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor(s)

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Caroline Wood, do hereby certify that I am a resident of or employed in the County of San Bernardino, over 18 years of age, and not a party to the within action, and that I am employed at and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
464 W Fourth Street, Room 348
San Bernardino, CA 92401

On December 22, 2022, I ser (1) Civil Wage and (1) Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

City of Fullerton 303 W. Commonwealth Avenue Fullerton, CA 92831 Stacy Matsumoto	Big Ben, Inc. 4790 Irvine Blvd., #105 Irvine, CA 92620 Maryam Sharifi	Markel Insurance Company Attn: 1505 Corporation 538 2710 Gateway Oaks Dr Ste 150N Sacramento, CA 95833
Markel Insurance Company 4521 Highwoods Parkway Glen Allen, VA 23060	Sepehr Sharifi Big Ben, Inc. 507 E. 1st Street, Suite E Tustin, CA 92780	

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid, and then depositing it in the United States mail in San Bernardino by:

- Ordinary first class mail
- Certified mail
- Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed on December 22, 2022, at San Bernardino, County of San Bernardino, California

Caroline Wood
SIGNATURE

STATE CASE NO.
40-72584-853
PW 34

7022 0410 0001 7902 3262

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
 \$ _____

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____

Postmark

City of Fullerton
 303 W. Commonwealth Avenue
 Fullerton, CA 92831
 Stacy Matsumoto

Street and Apt. No., or PO Box No. _____
 City, State, ZIP+4® _____

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7022 0410 0001 7902 3262

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
 \$ _____

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postmark Here

Big Ben, Inc
 4790 Irvine Blvd., #105
 Irvine, CA 92620
 Maryam Sharifi

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7022 0410 0001 7902 3279

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
 \$ _____

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postmark Here

Markel Insurance Company
 Attn: 1505 Coporation 538
 2710 Gateway Oaks Dr
 Ste 150N
 Sacramento, CA 95833

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7022 0410 0001 7902 3293

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
 \$ _____

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postmark Here

Sepehr Sharifi
 Big Ben, Inc.
 507 E. 1st Street, Suite E
 Tustin, CA 92780

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7022 0410 0001 7902 3286

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
 \$ _____

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postmark Here

Markel Insurance Company
 4521 Highwoods Parkway
 Glen Allen, VA 23060

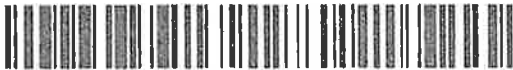
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Big Ben, Inc
 4790 Irvine Blvd., #105
 Irvine, CA 92620
 Maryam Sharifi



9590 9402 6817 1074 1918 94

2. Article Number (Transfer from service label)

7022 0410 0001 7902 3262

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No



3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

City of Fullerton
 303 W. Commonwealth Avenue
 Fullerton, CA 92831
 Stacy Matsumoto



9590 9402 6817 1074 1919 00

2. Article Number (Transfer from service label)

7022 0410 0001 7902 3323

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Market Insurance Company

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

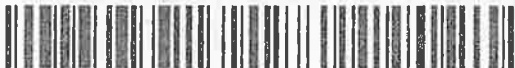
D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Markel Insurance Company
 Attn: 1505 Coproration 538
 2710 Gateway Oaks Dr
 Ste 150N
 Sacramento, CA 95833



9590 9402 6817 1074 1919 17

2. Article Number (Transfer from service label)

7022 0410 0001 7902 3279

COMPLETE THIS SECTION ON DELIVERY

A. Signature

- Agent
- Addressee

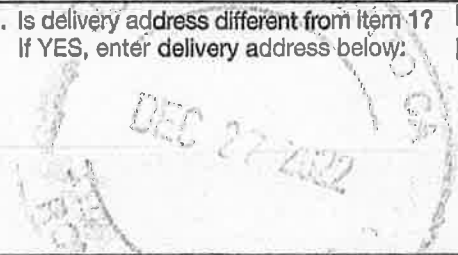
X SHAMEEL MOHAMMED

B. Received by (Printed Name)

WAVO CSC

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No



3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Labor Commissioner, State of California
 Department of Industrial Relations
 Division of Labor Standards Enforcement
 Bureau of Field Enforcement- Public Works
 TEL: (909) 383-4962

DATE:
 December 22, 2022

CIVIL WAGE AND PEN

Awarding Body
 City of Fullerton

Project Name
 Commonwealth Ave Reconstruction-BALCOM

Prime Contractor
 Big Ben, Inc.

Subcontractor(s)
 0

Second or Third-tier Subcontractor, if applicable

After an investigation concerning the payment of wages to above-named public works project, compliance with the act or compliance with the registration requirements set forth determined that violations of the California Labor Code are identified above. In accordance with Labor Code section and Penalty Assessment.

TOTAL ASSESSMENT:

The nature of the violations of the Labor Code and the Wage Violations: Big Ben Inc. misclassified w the project identified above in violation of Labor Code to \$120.00 per violation.

The attached Audit Summary further details the basis penalties due under Labor Code sections 1775 and 18

The Labor Commissioner has determined the total ar

The Labor Commissioner has determined the amount penalties assessed under Labor Code section 1775 i

The Labor Commissioner has determined the amount penalties assessed under Labor Code section 1813

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STATE LABOR COMMISSIONER

By Brian Ayala
 Brian Ayala
 Industrial Relations Representative

CERTIFIED MAIL
 7022 0410 0001 7902 3293
 FEB 15 2023
 STATE LABOR COMMISSIONER
 507 E. 1st Street, Suite E
 Fullerton, CA 92701
 UNCLAIMED
 RETURN TO SENDER
 UNCLAIMED
 UNABLE TO FORWARD
 0002/12/23
 92401141493 #0252-04311-12-16
 92760834