



UNITED STATES  
DEPARTMENT OF LABOR

## Wage and Hour Division (WHD)

### Press Releases

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Wage and Hour Division  
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### **US Labor Department recovers more than \$268,000 in back wages and penalties following investigation of Gem Interiors Inc. of Milford, Ohio**

#### ***Company debarred from participating in the H-2B visa program***

**MILFORD, Ohio** -- The U.S. Department of Labor's Wage and Hour Division investigated Gem Interiors Inc. and found violations of the Fair Labor Standards Act and the H-2B temporary nonimmigrant visa program. The company agreed to pay \$126,944 to 95 drywall installers for FLSA minimum wage and overtime violations, and an additional \$58,617 to 22 of these workers for violations of the H-2B provisions. The company has been debarred from participating in the H-2B program until 2014, and has paid \$82,968 in civil money penalties for its H-2B violations.

Investigators from the division's Columbus District Office found that Gem Interiors violated H-2B program requirements by certifying false statements on its Temporary Employment Certification applications in 2010 and 2011. Violations included falsely stating the occupation as construction laborer instead of the higher paid drywall installer, using the wage rate for laborer instead of drywall installer and employing workers outside the area of intended employment. Investigators found the workers were required to cut grass, remove trees and do other work at the employer's home, jobs not covered in Gem Interior's Temporary Employment Certification.

"Employers who choose to participate in the voluntary H-2B program must realize they are required to follow all of the labor standards of the program," said George Victory, district director of the Wage and Hour Division in Columbus. "This case demonstrates that we are using all tools available, including penalty assessments, to remedy violations, promote accountability and ensure a level playing field for law-abiding employers."

Gem Interiors did not pay the H-2B workers the rate certified on their application for all hours worked; they required H 2B workers to pay unlawful expenses; and it failed to follow proper reporting procedures required by the H-2B program.

The firm also violated the FLSA, which requires that covered, nonexempt employees be paid at least the federal minimum wage of \$7.25 per hour for all hours worked, plus time and one-half their regular rates of pay, including commissions, bonuses and incentive pay, for hours worked beyond 40 per week. Employers also are required to maintain accurate time and payroll records. Gem Interiors failed to reimburse some H-2B employees for inbound travel expenses and required individuals to purchase their visas, creating a minimum wage violation. The company also failed to keep records of hours worked and to pay proper overtime compensation for hours worked in excess of 40 per week.

The H-2B program permits employers to temporarily hire nonimmigrant foreign workers to perform nonagricultural labor or services in the United States, but only when qualified U.S. workers are unavailable, and the employment of the H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. The employment must be of a temporary nature for a limited period of time, such as a one-time occurrence or for seasonal, peak load and intermittent needs. The program requires an employer to attest to the department that it will offer a wage that equals or exceeds the highest of the following: the prevailing wage for the occupation and geographic area, applicable federal minimum wage, state minimum wage or local minimum wage. The program also establishes recruitment and displacement standards to protect similarly employed U.S. workers. For more information about the H-2B program, the FLSA and other federal wage laws, call the Wage and Hour Division's toll-free helpline at 866-4US-WAGE (487-9243). Information also is available at <http://www.dol.gov/whd>.

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