

Press Release: Wednesday, May 27, 2009

## **D.A.’s Arrest at Oakland-based ‘NBC General Contractors’, Owner Jailed**

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**LAW OFFICES OF ELLYN MOSCOWITZ**

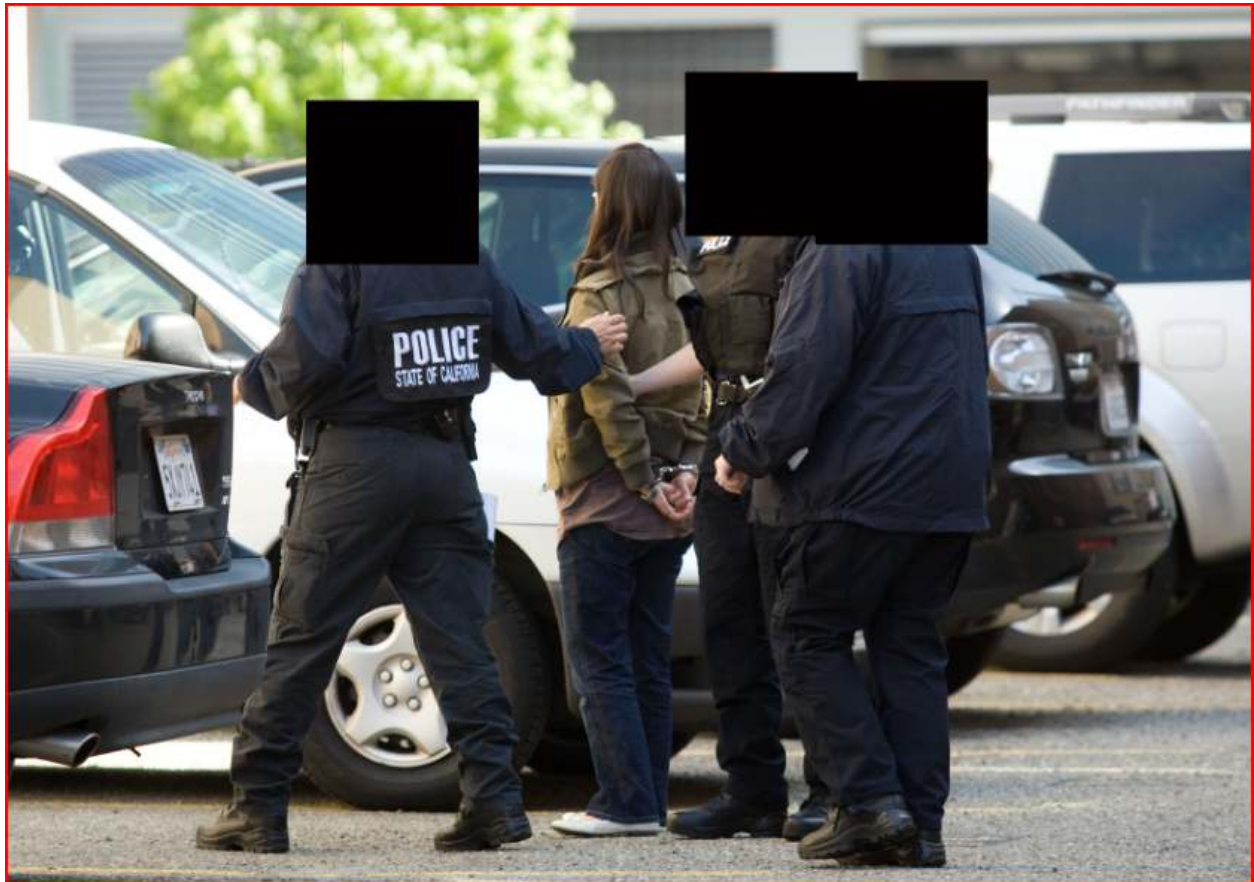
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**For PDF of Arrest Warrant email: [justice4nbcworkers@ibew595.org](mailto:justice4nbcworkers@ibew595.org)**

*The Law Offices of Ellyn Moscowitz were retained by the International Brotherhood of Electrical Workers (IBEW) Local 595 and the Northern California Chapter, National Electrical Contractors Association (NECA) in 2008 to take legal action on behalf of former employees of NBC General Contractors.*



*On Tuesday morning, May 26, police officers escort a woman from the offices of NBC General Contractors, 570 – 10<sup>th</sup> St., Oakland, CA.*

*Due to security requests by police, faces of arresting officers have been masked. [photo credit: D. Feria]*

## PRESS RELEASE – NBC GENERAL CONTRACTORS OWNER ARRESTED, JAILED

On Tuesday, May 26, the Alameda County District Attorney's office arrested Monica Ung, owner of NBC General Contractors, along with NBC employees Joey Ruan and Tin Wai Wu (Winnie Wu) on 48 felony counts that included public works wage fraud, grand theft of personal property, forgery and insurance fraud. The construction firm's illegal activities resulted in an estimated \$3.6 million dollars in unpaid wages to 19 construction workers. Losses due to illegally misclassifying workers cost the state an estimated \$1,451,735.85.

Bail for each defendant was set at \$535,000.00. Deputy D.A. Lance Kubo filed motions to examine the source of any bail, requesting that the court to "determine that no portion of any bail bond tendered by the defendant was feloniously obtained", making it more difficult for the defendants to post bail.

"The arrests today are a serious blow to an enterprise that is being charged with serious crimes against workers," declared Victor Uno, Business Manager for IBEW Local 595. "Many NBC workers were immigrant Chinese, who spoke very little English, and did not know U.S. laws or their rights. We applaud the action of the county D.A.'s office and California state's insurance commissioner in carrying out today's arrests."

The electrical workers union and the Northern California Chapter of the National Electrical Contractors Association were actively supporting former NBC workers, and had filed a class action lawsuit in July 2008 to recover unpaid wages and overtime for these workers.

"Because of our lawsuit, dozens of exploited Chinese workers came forward and gave testimony, not only for their civil suit for wages, not just for economic justice, but for the criminal system as well," stated attorney Ellyn Moscovitz.

"We are elated that a contractor is finally being held accountable for many years of illegal activities," noted Don Campbell, Executive Director for NECA. "Contractors that cheat workers out of wages, and cheat on insurance costs, undercut good, law-abiding union contractors. "

### **NBC's Illegal Activities Detailed**

Attached to the 48 count arrest warrant was a May 21, 2009, declaration signed by Gladys Rivera, investigator for the Department of Insurance, which detailed the extent of NBC's criminal activities:

**"Ung, Ruan and Wu fraudulently misrepresented NBC's payroll on the CPR's (Certified Pay Roll) submitted to at least 27 various public works awarding agencies, such as Mount Diablo Unified School District, County of Alameda, City of Daly city, Oakland Unified School District, Peralta Community College District and Fremont Unified School District. They signed prevailing wage rate when, in fact, they were paying the workers an hourly rate that was substantially below the prevailing wage."**

(emphasis in original)

"They were also intentionally adjusting the hours worked to match with the higher wage rate as evidenced by the time cards, spreadsheets and witness statements. Wu admitted to throwing away the

field time cards submitted by each employee and re-writing them...They threw away and re-wrote over a thousand time cards for at least fifty employees to reflect the adjusted hours. They kept track of the real hours and pay on a completely separate data base. They manipulated the payroll for over five years to reflect the higher wages and lower hours.”

“Interviews with at least thirteen (13) employees revealed that Ung, compelled workers into **signing two time cards** prior to receiving their paychecks. One time card was the actual hours worked and the other was a fraud used to appease the CPR reports, EDD, and SCIF...**Employees frequently worked 12 hour days and only received overtime on Sundays if they worked six days in a row. Employees only received their \$8-\$10 per hour or up to \$25 per hour, and did not receive the actual pay required by law for the actual work they performed. NBC falsely reported on the CPR’s the less hours at higher wage rates. After a cursory and conservative audit CDI Investigator Jeanne Van Til estimated the loss for these 19 employees at \$3.6 million in unpaid wages.** (emphasis in original) This does not include penalties and interest that are due to each employee, pursuant to the labor code.”

### **Unfair Advantage**

The office of California’s Insurance Commissioner Steve Poizner commented on the unfair advantage NBC had over other contractors:

“By allegedly falsely reporting the type of work performed by employees and wages paid, NBC exposed the workers’ compensation insurer to additional risk and allowed the company to engage in unfair business practices by giving an advantage over employers who correctly reported their payroll and risk. Because public works projects are typically awarded to the lowest bidder, the alleged fraud gave NBC a significant advantage over competitors.”

Because of the criminal charges that have been filed by the Alameda County District Attorney’s office, attorney Ellyn Moscowitz noted that “our class-action lawsuit on behalf of former employees of NBC General Contractors will be held in abeyance. But our efforts to hold unscrupulous contractors accountable to our laws and industry standards will continue.”

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