

OPEN SHOP GAZETTE

VOLUME II | JULY 2018

The following story appeared in the **Orange County Register** on July 15, 2018 and was written by Mark Nero. None of the companies listed in this story are AGC of California members.

“More than 100 construction workers who helped build Browning High School in Long Beach received an average of about \$7,200 in restitution in a settlement of a wage theft case against an Orange County subcontractor that was found to have cheated employees and kept false pay records.

California Labor Commissioner Julie A. Su found that 103 workers weren’t paid prevailing wage and fringe benefits by their employer, Newport Beach based Champion Construction Inc., a drywall and framing contractor hired for the Browning High School construction project by T.B. Penick, a San Diego – based contractor.

According to Su, Champion Construction Maintained false payroll records over a six-month period to cover up the wage theft. Under California’s prevailing wage laws, general contractor T.B. Penick is jointly liable for the violations of subcontractor Champion.

“Under the law (general contractors) are responsible for the wage theft of their subcontractors,” Su explained. “This case clearly demonstrates that general contractors who select contractors that don’t play by the rules will pay a heavy price.”

The Labor Commissioner’s Office launched the investigation after receiving a report of public works violations in March 2016. During the probe, investigators interviewed dozens of workers, conducted site visits and audited pay records for workers involved in the project.

The inquiry eventually led to civil wage and penalty assessments of \$1.73 million. Penick entered into a settlement agreement to pay \$1.18 million of the penalties and wages owed. In early July, the group of 103 workers received a total of \$744,533 or an average of \$7,228 each, when the employer delivered its final payment.

The settlement also includes \$8,080 for required apprenticeship training funds and \$434,465 in civil penalties, according to the state Department of Industrial Relations.

According to State labor law, all workers employed on public works projects must be paid the prevailing wage determined by the director of the Department of Industrial Relations, based on the type of work and location of the project. Failure to comply with public works requirements can result in civil penalties, criminal prosecution or both.

The Long Beach Unified School District initially hired T.B. Penick & Sons in September 2014 for Browning High’s construction, giving the company a nearly \$50 million contract. But in May 2017, the district, unhappy with the contractor’s work made a switch and hired Ontario based Neff Construction to finish the job for \$2.5 million. The school opened in August 2017.”

