



Commissioner Brad Avakian
Bureau of Labor and Industries

COMMISSIONER'S MESSAGE – September 14, 2009

Dear Friends:

I hope you all passed a safe and happy Labor Day Weekend. Despite some... *inconsistencies* in the weather it was a great time to celebrate Oregon's working people in the manner of your family's choosing. I hope your holiday was as enjoyable as mine.

With school back in session many of us will be taking fewer trips, but I am still visiting communities around Oregon as often as I can. I have had the privilege to visit many of your towns to discuss civil rights, workforce development and my other priorities at BOLI. In just the last three weeks I have spoken with the Chambers of Commerce in Astoria, Salem, The Dalles and Prineville, talking about BOLI's work and highlighting the technical assistance services we offer for employers.

My individual travels are just one component of my commitment to have a BOLI presence throughout Oregon. Even while I am reaching out to community groups in Portland, from the Jewish Federation of Greater Portland to the spirited group I spoke with at Terwilliger Plaza last weekend (You're a good man, Tom Wright—Thanks for inviting me), BOLI staff are out in the field teaching seminars, investigating complaints and conducting compliance reviews all over the state.

My calendar will continue to feature trips to various communities around Oregon, including my visit to Medford to chair an Oregon State Apprenticeship and Training Council meeting, speaking at a town hall in Bend and visiting Roseburg later this month. There are additional travel plans already in place and even more being set as I write this; I hope to see you all at one event or another in the near future.

It is a priority for me to build relationships throughout Oregon's communities, because all Oregonians have a stake in the success of BOLI's work. Many of you are aware of what BOLI does to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination. You know that we help train Oregon's skilled workforce and that we educate employers about their responsibilities and the "how-to" of complying with labor and employment laws. Unfortunately, there are a lot of Oregonians who don't know what BOLI can do to help them and that makes my efforts to raise awareness about the agency and our services a high priority.

Want to help spread the word about my work on civil rights, workforce development and a host of other issues? Encourage your friends and colleagues to [sign up for the Commissioner's Message](#).

Sincerely,

A handwritten signature in blue ink that reads "B. Avakian".

Brad Avakian
State Labor Commissioner

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

PWAC Public Comment Forum Scheduled

The last Commissioner's Message announced recommendations from the Prevailing Wage Advisory Committee (PWAC) for improving the annual Construction Industry Occupational Wage Survey. These recommendations are to:

1. Switch from "Peak Week" reporting (a snap-shot view of hours worked) to reporting a full 12-month interval of hours worked;
2. Investigate uniform web-based reporting for all survey respondents;
3. Include hours worked by apprentices in the total number of hours worked, but exclude their wage rates from that calculation;
4. Stop sending wage surveys to temporary labor agencies;
5. Establish a system for auditing the survey responses both randomly and when "red flags" are found in the reports;
6. Track contractors' total number of employees and clarify distinctions between skilled and unskilled levels of workers to ensure that no unskilled hours mistakenly skew the data;
7. Establish a system for validating the reports to BOLI from the Employment Department;
8. Clarify the "Fringe Benefits" designations to ensure accurate reporting; and
9. Re-format the survey to show breakdown of per diems, zone pay and other premiums separate from base wages.

PWAC has scheduled a meeting specifically to receive public feedback on the recommendations. Although you can continue to share your thoughts with the advisory committee via email (pwremail.boli@state.or.us), members will be on hand to take comments directly on:

Thursday, September 24, 2009
10:00 - 11:30 AM

International Union of Operating Engineers
555 East 1st Street
Gladstone, OR

Commissioner's Final Orders: Laying Down the Law

In the last Commissioner's Message you may recall reading about the case of Spud Cellar Deli, where BOLI found multiple violations of child labor law and ordered several thousand dollars in civil penalties. That was just one example of a complaint that BOLI took all the way through the administrative process to obtain a final order against an employer. For a fuller sense of the work that BOLI's Hearings Unit (HU) is doing for Oregonians, consider that between May and August of this year, final orders were issued in four other cases totaling \$62,990.66 in unpaid wages, penalty wages and civil penalties awarded to individual workers or to BOLI.

Several of these cases went to HU to ensure repayment of money from the Wage Security Fund (WSF), which BOLI uses to cover final wages for workers whose employers go out of business without sufficient funds to cover final paychecks. When payments are made from the WSF on behalf of an employer who is unable to promptly pay final wages owed, BOLI seeks to recover

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

amounts paid from any available assets of the employer. This often generates a contested case before HU. BOLI's veteran Administrative Law Judge hears the case and submits a preliminary order to Commissioner Avakian; the Commissioner reviews the case and issues the final order.

Recent final orders include:

Issued May 28, 2009—Tailor Made Decking & Fencing, Inc. was found to owe wages to two employees totaling \$2,118.00. In addition to the outstanding unpaid wages, Tailor Made Decking & Fencing, Inc. was also charged \$10,080.00 in penalty wages.

Issued June 4, 2009—The Agency paid \$2,037.50 in unpaid wages to two claimants and sought reimbursement to the Wage Security Fund from More and More Construction. The respondents were ordered to repay the fund as well as a 25% penalty to the fund, \$509.38. Also, More and More Construction was instructed to pay \$6,000.00 in penalty wages to the claimants and pay a \$3,000.00 civil penalty to one claimant based on the failure to pay overtime.

Issued July 31, 2009—The Agency paid out \$5,245.00 in unpaid wages to two claimants and sought reimbursement to the Wage Security Fund from Sehat Entertainment. The respondents were ordered to repay the fund, as well as a 25% penalty to the fund totaling \$1,311.25. An additional \$17,280.00 in remaining unpaid wages, not paid out by the fund, was ordered to be paid to the claimants. Penalty wages of \$4,200.00 was ordered to be paid to the claimant, along with a \$2,400.00 civil penalty payable to the state.

Issued August 26, 2009—NW Sportsbar, LLC closed in 2006 still owing wages to four employees. BOLI Commissioner, Brad Avakian, found the claims made against the former employer to be valid and distributed \$7,047.62 to be paid to the four claimants. BOLI's WHD found that NW Sportsbar, LLC could not financially repay the wages to the Wage Security Fund and established the respondent Blachana, LLC to be a "successor" employer. Therefore, Blachana, LLC was ordered to repay the fund and a 25% penalty of \$1,761.93.

To learn more about BOLI's Hearings Unit or a final order, [click here](#).

Upcoming BOLI Events

Date	Event Type	Location	Subject	Contact
Sept. 15	TA Seminar	Portland State Office Bldg.	Leave Laws in Oregon: Basic OFLA/FMLA	TA Program @ 971-673-0824
Sept. 16	TA Seminar	Salem – Roth's Hospitality Ctr.	Payroll Issues	TA Program @ 971-673-0824
Sept. 17	Council Mtg.	Superior Air in Medford	Oregon State Apprenticeship & Training Council	Appr. Div. @ 971-673-0760
Sept. 17	TA Seminar	Portland State Office Bldg.	Employer's Guide to State & Federal Civil Rights Protections	TA Program @ 971-673-0824
Sept. 22	TA Seminar	Portland State Office Bldg.	Advanced Leave Laws	TA Program @ 971-673-0824
Sept. 24	PWAC Mtg.	IUOE Local 701 in	Survey	PWR Unit @

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

Date	Event Type	Location	Subject	Contact
		Gladstone	Recommendations	971-673-0838
Sept. 24	PWR Seminar	Albany City Hall	PWR for Public Agencies	PWR Unit @ 971-673-0838
Sept. 24	PWR Seminar	Albany City Hall	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838
Sept. 29	TA Seminar	Coos Bay Red Lion Hotel	Wage & Hour Laws	TA Program @ 971-673-0824
Sept. 30	PWR Seminar	Klamath County Gov't Center	PWR for Public Agencies	PWR Unit @ 971-673-0838
Sept. 30	PWR Seminar	Klamath County Gov't Center	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838
Oct. 1	PWR Seminar	Jackson County Library	PWR for Public Agencies	PWR Unit @ 971-673-0838
Oct. 1	PWR Seminar	Jackson County Library	PWR for Contractors and Subcontractors	PWR Unit @ 971-673-0838

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.