



## Press Release

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### **Jury Rules Against Union Scheme to Shut-out Non-union Competition**

#### ***Threats, Intimidation cited; multi-million dollar “market recovery” funds at issue***

A federal jury in Boston yesterday issued a verdict against Ironworkers Local 7’s conspiracy to deny work to non-union steel erection contractors and their employees. The jury awarded the contractors \$290,000 in damages.

The non-union steel erectors alleged that Local 7, based in South Boston, threatened and coerced customers to break their contracts with the non-union firms in order to award work to union contractors signatory to Local 7.

Local 7 also subsidized the bids of the union erectors to bring down prices on the union jobs. However, evidence presented at trial showed that performing the work with a union workforce actually cost the building owners a premium of nearly 40 percent in some cases.

Records presented in this case showed Local 7 spent some \$16 million dollars in employee funds, known as market recovery funds, in its attempts to threaten, coerce and convince company owners to take jobs away from non union contractors. Through the union collective bargaining agreements, monies are allocated to the funds on an hourly basis and vary depending on union. For Local 7 the contribution is 85 cents per hour. These funds grew significantly through the Big Dig, a \$22 billion project built under a union-only project labor agreement. The union-only monopoly allowed union firms to pass on to taxpayers the additional costs of monies paid into these funds.

“This case has been a long and difficult journey, but the result is that America still stands for free enterprise and fair competition,” said Glen Pisani, president of DFM Industries of Wrentham, MA, one of the non-union plaintiffs. Don Morel, president of Ajax Construction of Harrisville, RI -- another of the plaintiffs -- said, “This verdict is evidence that a jury of my peers saw the truth. I am very thankful.”

The case was filed in 2004. This trial is only a part of a larger antitrust case against Local 7. The Plaintiffs are represented by Michael Avakian of Springfield, VA. According to

Avakian, “This is a precedent setting. The jury’s verdict has provided damages to these contractors and helps allow the larger case to move forward. This involves the entire steel erection market in New England and the tactics Local 7 has used to dominate it.”

Greg Beeman, president of Associated Builders and Contractors’ Massachusetts Chapter, said “The issue here is fair competition. Every contractor and employee should have a legitimate opportunity to work, free from what amounts to organized extortion. The reality is the majority of union members get no benefit from these funds. Market recovery funds are anti-worker and anti-taxpayer and we hope this jury verdict is the beginning of the end of them.”

The case involves Section 8 (e) of the National Labor Relations Act. 8 (e) is the “hot cargo” section of the Act. It prohibits a union and an employer from conspiring not to do business with another company. In this case, Ironworkers Local 7 was found to have conspired to eliminate competition from non-union steel erectors on MA jobsites.

The larger anti-trust case focuses on the union’s market recovery fund and whether it violates anti-trust laws.

Earlier this year, a study, conducted by George Mason University’s John M. Olin Institute for Employment Practice and Policy, showing that from 2000 to 2007, construction labor unions spent more than \$1 billion in market recovery funds in an attempt to underbid nonunion contractors in a practice called “job targeting.”

“The study documents the lengths to which unions have gone to hide these slush funds, raising serious questions about how their contributions are being treated for tax purposes and, consequently, whether these programs may be adversely affecting tax revenues at the federal, state and local levels,” said Jim Elmer, ABC National 2009 chairman and president of James W. Elmer Construction Co., Spokane, Wash.

“There is no reason on earth why unions should be able to use job targeting programs – which are nothing short of using kickbacks from a slush fund – to give them an unfair advantage over their competition,” said Elmer. “The bottom line is that job targeting hurts U.S. workers, taxpayers and the economy, and it’s a practice that should be stopped.”

ABC’s National Construction Legal Rights Foundation has provided support for this case.

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Associated Builders and Contractors’ Massachusetts Chapter is the largest construction trade association in the state, representing some 450 contractors and related businesses. Nationally ABC represents 25,000 firms in 79 chapters across the United States. ABC supports the merit shop philosophy that construction contracts should be awarded on the basis of merit through open and fair competition. Visit us at [www.abcma.org](http://www.abcma.org)