

July 24, 2007

**Health, Employment, Labor and Pensions Subcommittee and
Workforce Protections Subcommittees**

**The Misclassification of Workers as Independent Contractors:
What Policies and Practices Best Protect Workers?**

**Testimony of Sara Stafford
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Chairwoman Woolsey, Chairman Andrews and members of the subcommittees it is a pleasure to address you today on an important subject adversely affecting the construction industry—the misclassification of workers as independent contractors.

I have been in the construction industry for many years. I am the President and sole owner of Stafford Construction Services, Inc. Primarily, we do interior framing, drywall and plastering in metropolitan Boston. I am a union company—I have collective-bargaining agreements with local unions of the New England Regional Council of Carpenters as well as three other unions.

The construction industry is particularly prone to illegal practices. The industry is very competitive, with jobs frequently awarded to the lowest bidder. Under those circumstances, it is difficult to compete against others that misclassify their workers' as independent contractors.

I play by the rules, and I work with a union that makes sure that is the case. Don't be mistaken, I'm not complaining. We have a common interest in having a market where high standards and fair competition are the rule. And a basic rule is abiding by the law. My company's employees are all on the payroll. They get overtime pay and workers' compensation coverage and we pay federal and state unemployment, Social Security and Medicare taxes and we withhold state and federal income taxes. That is okay, because that is the law. But it becomes difficult when I have to compete against other companies that routinely misclassify their workforce and do none of those things. Automatically, they get a least a 30 percent advantage on labor costs.

Another rule, basic to many responsible companies like mine, is to provide employees with a good family medical and retirement plans—a foreign concept to companies that misclassify workers.

The results of that kind of conduct are not difficult to fathom. More of the insurance and tax burden is put on responsible employers (union and non-union) that play by the rules because less people are paying into the system. Also, my company has lost work, and my employees have lost income because bids were won by employers that misclassify workers. There are whole market segments, like residential construction, that are almost impossible for legitimate interior companies like mine to work in. That is not fair, and more concern needs to be shown to law-abiding companies. Otherwise; they will either go out of business or join the cheaters.

And what about the workers? Misclassified workers don't have the benefits of union protection. They do not have a cop-on-the beat, so to speak, that will make sure their employer plays by the rules. If they want union representation their irresponsible employer will make them jump through hoops to prove that they are employees. That is a driving force behind the continuing misclassification problem harming our industry.

As I said earlier, I have a common interest with the union to promote high standards and to make sure competition in the construction industry is fair. When union representation is made more difficult by misclassification then misclassification becomes an ever bigger problem threatening the existence of employers like me who play by the rules.