

## RECENT COMPLIANCE PROJECTS

**Investigator:** EMB Contracting Corp. The New York City School Construction Authority recently retained Doar Rieck Kaley & Mack as an Independent Auditing Firm (IAF) for job site oversight and compliance by the monitored construction firm with all applicable laws and regulations.

**Independent Investigator:** United States v. District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America 90 Civ 5722 (CSH) (S.D.N.Y.) Walter Mack was appointed by the Hon. Charles S. Haight, Jr., United States Senior District Judge, as Independent Investigator to investigate allegations of wrongdoing concerning the operation of the union's job referral system and/or related corruption or violations of federal, state or local law by officials or members of the union. Amy Rothstein and Donald Sobocienski assisted Mr. Mack in his duties, which included operating the Carpenters' Union Anti-Corruption Hot Line and evaluating the Union's Anti-Corruption Program. Mr. Mack conducted numerous investigations pertaining to contractors who had violated the Collective Bargaining Agreement by paying carpenters in "cash" without benefit funds remittances. His investigative findings were provided to the United States Attorney for criminal prosecution. The core project team was assisted by other members of the Compliance Practice Group on specific investigative matters. Mr. Mack and Ms. Rothstein submitted detailed reports to the Court which are part of the public record and are available upon request

**Monitor:** United States v. Gigante, 96 Cr. 466 (JSR) (S.D.N.Y.) Based on his extensive experience prosecuting organized crime cases, Walter Mack was appointed Monitor by the Hon. Jed S. Rakoff for six individual defendants and thirteen companies engaged in the waste disposal business. While the indictment was pending, Mr. Mack, together with Amy Rothstein, monitored the defendants to prevent additional unlawful conduct and dissipation of the companies' assets. After pleas of guilty were entered, Mr. Mack was designated monitor for the corporate defendants for an additional five-year period. The monitored companies were subsequently acquired by Allied Waste Industries, a national waste disposal company. Among Mr. Mack's accomplishments as monitor was the development of a Code of Ethics and Corporate Compliance Plan for the monitored companies and his initiation of several investigations. Mr. Mack and the monitorship team maintained daily contact with management and employees with the goal of ensuring compliance with all federal, state and local laws and with the governing court order. Mr. Mack and Ms. Rothstein submitted regular, detailed reports to the court.

Mr. Mack was assisted in the monitorship by KPMG and the Doar Rieck Kaley & Mack investigative group. The investigative group led by Donald Sobocienski conducted several investigations, one of which led to the arrest of two individuals who had allegedly defrauded numerous companies, including a monitored entity, of hundreds of thousands of dollars. The investigative group also conducted investigations pertaining to illegal disposal of waste, falsified record keeping and fraudulent customer billings. The investigations are described in detail as part of the Monitor's Investigative Reports to the court.

**Monitor:** United States v. Hickey's Carting, Inc., 96 Cr. 693 (DRH) (E.D.N.Y.) The Hon. Dennis Hurley appointed Walter Mack as Monitor for three carting companies while they were under indictment for organized crime-related activities. Assisting Mr. Mack in his monitoring duties were Amy Rothstein, KPMG, and the Doar Rieck Kaley & Mack investigative group. The monitorship team oversaw the companies' daily activities for compliance with federal and state law, preservation of assets and compliance with bail conditions. Subsequent to the companies' guilty pleas, Judge Hurley ordered Mr. Mack remain as Monitor until the companies were sold.

**Investigative Attorney:** Laborers' International Union of North America. Mr. Mack served as Investigative Attorney in New York for LIUNA to enforce the ethical practices code that was adopted pursuant to an agreement between LIUNA and the United States Department of Justice. Working with a team of investigators, Mr. Mack, together with Ms. Rothstein, investigated and prosecuted allegations of organized crime association and other misconduct as defined in the union's ethical practices code.

**Monitor:** Waste Management of New York, Inc. Appointed jointly by the New York City Trade Waste Commission and the company, Walter Mack and former counsel to the firm, Susan Shepard, monitored Waste Management of New York to facilitate compliance with the terms of its licensing order and local law and regulations. Assisted by Donald Sobocienski, members of the Compliance Practice Group and company audit and compliance personnel, Mr. Mack and Ms Shepard developed a compliance plan and internal reporting procedures and conducted several internal investigations.

**Monitor:** T.A. Ahern Contractors and Ahern Painting Contractors retained Walter Mack in order to rehabilitate their performance and reputation after the principal officer of both companies agreed to plead guilty in a tax conspiracy case. The companies subsequently signed agreements with various New York State and New York City agencies, requiring that they be monitored as a condition for obtaining construction and painting contracts. Pursuant to these agreements, Mr. Mack continued as monitor for the companies. Assisting Mr. Mack in his monitoring duties were David Rivera, KPMG and the Doar Rieck Kaley & Mack investigative group. Mr. Mack and Mr. Rivera developed and implemented rigorous procedures to oversee the companies' ongoing operations including drafting a Code of Conduct and providing ethics training to the companies' employees.

The Doar Rieck Kaley & Mack investigative group, led by Donald Sobocienski, conducted investigations pertaining to the fraudulent employment of MBE/WBE subcontractors and the submission of falsified certified payrolls, violations of prevailing wage laws and possible union corruption.

**Investigator/Consultant:** A Private School retained Amy Rothstein to supervise the Board of Directors' investigation into allegations of child abuse.

**Investigator:** A Real Estate Ownership Group retained Walter Mack to investigate construction and bidding practices of companies managing a number of major buildings in New York City. A team of investigators and forensic accountants, working with Mr. Mack, interviewed witnesses, reviewed books and records, and forged a working relationship with the local prosecuting office.

**Investigator:** A Non-Profit Organization retained Amy Rothstein to investigate and report on allegations of employee misconduct.

**Investigator:** DJH Mechanical Associates. The New York City School Construction Authority retained Doar Rieck Kaley & Mack as an Independent Auditing Firm (IAF) to examine the records of a contractor for suspected violations of prevailing wage laws. Donald Sobocienski and Marc Schwarz, together with David Rivera, reviewed the company's payroll records and supporting documentation, interviewed management and workers, and prepared a written report which described violations of prevailing wage laws and shortages in the amount of over one million dollars in unpaid supplemental benefits and overtime wages.

A report and findings were provided by the School Construction Authority's Inspector General to the United States Attorney of the Eastern District of New York for prosecution. In furtherance of the prosecution, the SCA Inspector General retained Mr. Mack as IAF to resume his audit of the company.

Subsequently, pursuant to a plea agreement and Preliminary Order of Forfeiture, Mr. Mack was appointed Special Master for the United States District Court, E.D.N.Y., responsible for identifying the victims entitled to restitution and calculating the specific amount of supplemental benefits due to them from a \$1.2 million Restitution Fund.

**Monitor:** FPC Construction. Walter Mack was retained as the Monitor of a construction company pursuant to a plea agreement between the District Attorney of the County of New York and the company's owner, who pled guilty to crimes of restraint of trade, bribery and grand larceny.

Mr. Mack, David Rivera and Donald Sobocienski implemented rigorous compliance procedures which included routinely reviewing the company's books and records, enacting a Code of Conduct and ethics training program, making unannounced work-site visits on a random basis, and closely supervising the company's ongoing projects.

**Monitor:** Sanitation Salvage. Walter Mack was appointed by the New York City Business Integrity Commission as Monitor for a licensed waste hauling company with the mission of monitoring the good character, honesty and integrity of the company, its officers and employees. Mr. Mack was assisted in his duties by David Rivera, Donald Sobocienski and Marc Schwarz. The monitorship team maintained daily contact and met regularly with the employees and officers of the company. Marc Schwarz conducted routine audits of the company's books

and records and designed and developed procedures and protocols for various operations of the business which the company adopted and implemented.

**Monitor:** HANAC, Inc. John Kaley, a member of the monitorship team, served as the Independent Monitor for HANAC, Inc. (an acronym for the Hellenic American Neighborhood Action Coalition) at the request of the Department of Investigation of the City of New York, prior to joining the firm. HANAC, a private social services agency, which operates throughout the City of New York, in the wake of wrongdoing and certain scandals affecting that operation, was required to have an "Independent Private Monitor" as a condition of continuing its contracts with the City of New York. Mr. Kaley served as monitor for a 5-year period from 1997 through 2002. During that time, Mr. Kaley created and implemented an integrity program for the entire organization, interviewed and regularly met with staff of the organization, including the Board of Directors and the financial staff. During his tenure, Mr. Kaley drafted and implemented a Code of Ethics, an internal audit manual and regularly reviewed the organizational financial data and reports, and conducted investigations of alleged improper conduct. In addition, Mr. Kaley implemented and supervised a hotline for the organization.

**Monitor:** Varsity Plumbing. The New York City School Construction Authority retained Doar Rieck Kaley & Mack as an Independent Auditing Firm (IAF) to examine the payroll records of Varsity Plumbing & Heating Inc. for suspected violations of the prevailing wage laws. With assistance from the SCA and the SCA Inspector General's Office, our Chief Investigator, Donald Sobocienski, conducted a detailed audit and examination of the company records. The report of his findings, which included Varsity's routine use of unregistered apprentices on SCA job sites, was furnished to the SCA Inspector General.

**Special Administrator:** Plumbing Solutions, Ltd. Walter Mack was appointed to serve as the Special Administrator of a \$300,000 Trust Fund established by a plumbing contractor, Plumbing Solutions, Ltd., pursuant to an agreement between the contractor and the Office of the Attorney General of the State of New York. The purpose of the Trust Fund was to compensate workers who had not been paid at the prevailing wage. David Rivera and Donald Sobocienski were responsible for collecting and analyzing the relevant payroll records from the contractor and the workers, interviewing witnesses and otherwise processing the arbitration claims asserted by the former workers for Mr. Mack's final determination of an appropriate award. Hearings were conducted between the claimants and the contractor and written opinions and awards were issued resolving the contentions of the parties.

**Independent Investigator:** Liberty Tree Service. Walter Mack was retained, as per an agreement between Liberty Tree Service and the New York State Attorney General, to conduct an investigation and examination of Liberty's payroll records. This assignment was based on allegations brought to the Attorney General by the Port Authority of New York & New Jersey Inspector General that Liberty Tree had engaged in violations of the prevailing wage laws. With assistance from the Port Authority Inspector General's office, Mr. Sobocienski conducted an investigation of the allegations which included interviews of employees and an examination of the company records. A detailed report of his findings was submitted to the New York State Attorney General.