

Op-Ed: When Shady Employers Cheat, We All Foot the Bill.

By Douglas J. McCarron

The construction industry is one of the first sectors to feel pain when the economy gets volatile. This unpredictability is a fact of life, but it can be nerve-wracking for folks trying to make a living building things, from owners of construction companies all the way to carpenters and others who labor on jobsites.

One thing that doesn't change is the human instinct to want fairness. I hear it from contractors and carpenters alike: they only want a level playing field and to be treated fairly.

But for decades the construction industry has become increasingly hostile to ordinary people trying to do quality work and make a living—all because of an epidemic of lawbreaking that has become normalized and woven into the way many employers do business.

And everyone pays for it; not just the workers and honest contractors who are directly affected. The poison from the criminal cheating that infects all of construction extends to our communities and our pocketbooks, in the form of employer tax fraud.

Fraud is found on all kinds of construction sites, including large housing developments, universities, hospitals, airports, office buildings, factories, military bases and schools. And it costs all of us billions of dollars every year when construction employers operate using the “tax fraud playbook.”

Employers such as general contractors and subcontractors hire shady “brokers” to supply crews of workers who do everything from concrete foundation work, drywall and metal stud installation, wood framing, and floorlaying. The brokers routinely skip out on their payroll tax and other obligations by illegally misclassifying workers as “independent contractors” or, more often, paying them off the books. That means employers do not withhold taxes or offer basic workplace protections. At the end of the year, workers get a 1099 instead of a W2, or they get nothing at all.

The brokers' rock-bottom labor costs allow subcontractors and general contractors to underbid law-abiding employers, win jobs and expand their businesses. That is fundamentally unfair.

About [2.1 million](#) workers are misclassified or paid off the books every year. Crooked employers who misclassify leave it to workers and their families to pay billions in federal employment taxes that their employers should be paying. That is a tax increase on the backs of working families.

According to a [new study](#) by the Economic Policy Institute, a typical construction worker who is paid as an independent contractor can expect to lose as much as \$19,526 per year in income and benefits compared with what they would have earned as a W-2 employee.

Due to wage theft alone, construction workers lose \$1.9 billion every year.

And it costs state and federal taxpayers a whopping \$28 billion a year because the illegal practices and low pay mean that about 39 percent of U.S. construction worker families [have to rely on public assistance programs](#) like food stamps to make ends meet.

And then there are the yearly costs to the programs we all rely on. Those who commit tax fraud rob the Social Security and Medicare systems, state unemployment insurance funds and federal and state income tax coffers.

The fraud playbook is used within the workers' compensation field as well, to the tune of [some \\$5 billion lost](#) due to employer premium fraud. Many workers who have been cheated out of wages also suffer injuries when lawbreaking contractors operate unsafe jobsites. Employers who have cheated on their workers' compensation premium obligations routinely leave it to injured workers to pay for their own medical treatment—or the costs are passed along to the rest of us.

Praxis Aguilar's harrowing experience is emblematic of this lawbreaking pattern. He and his young son arrived in Minnesota from Central America, heavily in debt to "coyotes" for their passage. Housed in a small apartment with 18 people, he was sent by a labor broker to work on a publicly subsidized apartment project. He received no training and was not fully paid for his labor but was expected to pay his inflated rent and work off his debt.

It wasn't long before Praxis fell from the second floor, suffering extensive injuries. But he was told he had to keep working and was immediately moved to another jobsite. Praxis suffered another fall there and was again told to get back to work. He had no money to pay a doctor. He is still recovering from his injuries and has been cooperating with authorities as they investigate his case of wage theft and worker exploitation.

We need systemic changes to restore integrity to our construction industry.

States can enact "upper-tier" contractor liability laws, so that general contractors, owners and others can be held responsible for the illegal actions of their subcontractors, including low-road labor brokers. These laws already exist in nine states and the District of Columbia.

District attorneys, attorneys general and law enforcement agencies can break apart labor-broker fraud schemes by holding those upper-tier contractors criminally liable as well.

Insurance commissioners and legislatures can reform the workers' compensation system to reform the insurer practices that enable premium fraud.

It's a matter of simple fairness.

Construction workers will be educating policymakers and the public April 12 – 18 during Tax Fraud Days of Action. Visit <https://stoptaxfraud.net/standup/> to learn more.

Douglas J. McCarron is General President of the United Brotherhood of Carpenters and Joiners of America, which represents over 500,000 skilled workers throughout North America.