

# HUD Charges Workers Were Cheated on Pay

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Two officials of an Escondido landscaping firm were indicted Wednesday on 12 counts each, including charges of conspiracy to defraud the federal government, after a five-month probe of alleged construction worker underpayment at a federally subsidized apartment complex project in Point Loma.

U.S. Atty. Peter K. Nunez said officials of Irriscape Construction Inc. cheated workers, many of them illegal aliens, out of up to \$70,000 in wages after the firm became a subcontractor on the \$18.3-million Mariner's Cove complex, a nearly completed 500-unit low-income housing project at West Point Loma and Nimitz boulevards.

The Times first reported the investigation by Nunez's office and the U.S. Department of Housing and Urban Development (HUD) in a story last month.

Two former employees of another subcontractor, Rainbow Construction Co. of Hemet, told a reporter they and other workers had to work 10 to 30 hours of unpaid overtime a week and consequently earned far less than the \$20.99 an hour they should have been making.

HUD officials confirmed at the time that a probe of both Rainbow and Irriscape was in progress and that indictments might result. The FBI was also involved in the investigation along with the U.S. attorney's office and HUD's Inspector General office.

## Other Probes

Nunez said federal investigators are conducting similar probes of other firms believed to be underpaying workers at San Diego construction sites where federal funds are involved. He said the probe involved "less than 10" contractors or subcontractors.

The Irriscape indictment names the firm's president and chief operating officer, Robert Henking Smith, 23, of Escondido; and foreman, Karl Lance Scott, 46, of El Cajon, as well as the company itself.

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Warrants for their arrests were issued Wednesday.

Authorities are attempting to contact Scott, and Smith has agreed to appear in court Friday for arraignment, Nunez said. If convicted on all counts, both men face prison terms of up to 15 years and \$25,000 in fines. The indictment is the first of its kind involving local wage fraud, Nunez said.

The federal government is involved in the investigation because the project, while built with private funds, is being financed through an arrangement in which HUD guaranteed most of the \$18-million construction loan to the developer, Lincoln Property Associates.

Because of the HUD guarantee, the project is regulated by a federal labor law known as the Davis-Bacon Act that requires developers and contractors to pay "prevailing" wages for work on the project.

## 'Fraudulent' Payroll

The indictment alleges that Irriscape "hired illegal aliens to work on the project, paid less than prevailing wages . . . and required other laborers who were paid prevailing wages to work 50 hours a week for 40 hours pay." Irriscape submitted "false and fraudulent payroll" documents, the government said.

"Irriscape further required these

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workers to agree to be paid their wages sometimes as long as two months after they had worked on the job. Those employees who complained about this arrangement were threatened with dismissal and were told that they would be replaced by workers who would work for less," the indictment said.

The indictment said Smith and Scott "obstructed and impeded" a HUD contract compliance officer who attempted to inspect the project to determine if federal laws were being followed by telling the illegals to leave the job site when the HUD inspector was to be there. The two also told other workers to tell the HUD officer they were being paid prevailing wages, the indictment said.

Nunez said Irriscape "did not comply and did not intend to comply" with the Davis-Bacon Act, and by developing a scheme that enabled them to pay lower wages, was able to outbid other subcontractors for the job. Irriscape had a \$500,000 contract to install landscaping and irrigation equipment at the site.