



# **Mason Contractors Association of America**

*Advancing the Masonry Industry*

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**Statement to the  
House of Representatives Subcommittee on Workforce Protections  
by  
Cliff Horn  
on  
“Providing Fairness to Workers Who Have Been Misclassified as Independent  
Contractors”**

Good morning, and thank you Chairwoman Woolsey, Ranking Member Wilson and members of the subcommittee for inviting me today to discuss the deliberate misclassification of workers as independent contractors, and the effects on our nation. My name is Cliff Horn, President of A. Horn Inc. we are a commercial mason contractor, working in the Chicago-land area. I am testifying today on behalf of the Mason Contractors Association of America, a national trade association representing Mason Contractors across the country and whose membership accounts for \$2 billion in masonry sales annually.

My father arrived in the US in 1957 not knowing a word of English with just \$26, a suitcase and a dream of a better life. He worked his first day in America as a construction laborer. After 14 years of employment as a union tradesman, my dad and mom started their own masonry contracting business, A. Horn Inc. After 19 years the business employed 15 people and had achieved annual sales revenues of 3 million. In 1990 I started with A Horn Inc. as an apprentice mason. After I completed my apprenticeship in 1994, I became president in 1998. By 2001, sales had increased to \$10 million and our sales projections for 2007 are \$15 million. Currently we have 75 employees.

Obviously, growing businesses need profitable contracts. However, for contracting bidding to be fair, the playing field has to be even. When a contractor misclassifies his employees as independent contractors, he gets a competitive disadvantage over the contractors who are playing by the rules and classifying their employees properly.

The misclassification of workers has impacted my business and it is impacted the construction industry at the local, state and federal level.

By misclassifying employees as independent contractors, unscrupulous employers are able to avoid paying taxes and insurance. Businesses that misclassify employees as independent

contractors can expect to reduce their labor costs by between 15 and 30 percent. This places contractors like myself at a competitive disadvantage in an industry with 20% gross margins.

The American construction industry is being threatened by the misuse and abuse of independent contractors. Independent Contractors typically have no formalized training, no quality control, and no access to continuing education. There are legitimate independent contractors in the construction industry and it is not my intention to undermine those sole proprietorships and small businesses. The problem which we are here to address today is the intentional misclassification of individuals who are in fact employees but are classified as “independent contractors” by unscrupulous employers. Furthermore, there is the serious question of operations liability coverage in case of a claim, or public health scare. If business owners are taking shortcuts with payroll taxes and liability insurance, would shortcuts in construction methods and design specifications be out of the question? If some contractors are skirting around worker’s compensation, then the firms who properly classify employees are forced to carry the burden. If workers compensation is unavailable to a worker, then our health care system absorbs the cost.

The Masonry Industry made the American Dream real for my family. However, I am worried that some contractors are undercutting the industry by misclassifying workers. This is leading to a race to the bottom which will ultimately hurt the industry in the end and leave all contractors at a competitive disadvantage.

I strongly urge Congress to take action to clearly define who is and who is not an independent contractor. Thank you for your time.