

**Testimony of Michael Firestone, Director of Coalition to Protect Workers' Rights
To the Unemployment Insurance Trust Fund Commission
July 23, 2021**

Thank you to Chair Jehlen, Chair Cutler, and the members of the Commission for allowing me to testify today on the pervasive and growing threat to solvency from giant tech companies in the “gig economy” who illegally fail to pay into the UI trust fund on behalf of hundreds of thousands of misclassified workers.

My name is Mike Firestone. I'm a Somerville resident, a former Massachusetts assistant attorney general, and the Director of the Coalition to Protect Workers' Rights. The coalition is a newly-formed alliance of workers, civil rights, immigrant, faith, labor, community, racial and environmental justice groups that has formed to oppose a \$100M+ campaign by Big Tech companies, like Uber and Lyft, to exclude their workers from basic rights and exempt themselves from the obligations of every other employer.

I urge this committee to see misclassification as a threat to BOTH workers and to solvency. Through misclassification, millions of workers across the country — disproportionately low-wage workers, immigrants, and people of color — across all sectors of the economy, are denied basic workplace protections, including access to unemployment insurance.

The financial impacts are significant. A recent study estimates that misclassification in the Massachusetts construction industry led to a shortfall in UI contributions of between \$24.5 million and \$40.6 million in 2019 alone.¹ Employers who play by the rules and pay into the system are undercut by the lower labor costs of companies that cheat the system.²

This free-riding was especially clear during the pandemic. While taxpayer-funded PUA benefits provided a vital lifeline for many misclassified gig workers, this was a temporary, inadequate fix, and a massive subsidy to multi-billion dollar tech companies which have illegally refused to contribute to state UI trust funds. With PUA set to expire this September, addressing misclassification in the UI context is an increasingly urgent issue, both to ensure that misclassified workers don't lose access to vital UI benefits and to secure the solvency of the UI Trust Fund.

Here in Massachusetts, we estimate that illegal nonpayment by Big Tech gig companies, including Uber, Lyft, DoorDash, and Instacart, as well as Amazon, have cost the Trust Fund hundreds of millions.

¹ Tom Juravich, Russell Ormiston, and Dale Belman, “The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts,” UMass Amherst Labor Center (June 28, 2021), <https://www.umass.edu/lrrc/sites/default/files/Juravich%20Wage%20Theft%206%2028%2021.pdf>

² Françoise Carré, “(In)dependent Contractor Misclassification,” Economic Policy Institute (June 8, 2015), <https://www.epi.org/publication/independent-contractor-misclassification/>

Other states are addressing this problem, like New Jersey—which uses the same employment-status test as Massachusetts—by seeking to recoup \$530 million in unpaid UI and disability insurance contributions and \$119 million in interest from Uber alone for the period between 2014 to 2018.³ A study by the UC Berkeley Labor Center estimated that, between 2014 and 2019, Uber and Lyft should have paid \$413 million in UI contributions in California.⁴

The Coalition urges this Commission to formally recommend that the Department of Labor and Department of Unemployment Assistance prioritize enforcement against tech giants, like Uber, and Lyft to recover hundreds of millions for the trust fund and protect working people in our state. Thank you.

³ Matthew Haag and Patrick McGeehan, “Uber Fined \$649 Million for Saying Drivers Aren’t Employees,” *New York Times* (Nov. 14, 2019), <https://www.nytimes.com/2019/11/14/nyregion/uber-new-jersey-drivers.html>; Massachusetts and New Jersey’s UI laws use the same version of the “ABC” test to define employment status in their UI statutes, *compare* M.G.L. c. 151A, § 2 *and* N.J.S.A. § 43:21-19(i)(6).

⁴ Ken Jacobs and Michael Reich, “What would Uber and Lyft owe to the State Unemployment Insurance Fund?,” UC Berkeley Labor Center (May 7, 2020), <https://laborcenter.berkeley.edu/what-would-uber-and-lyft-owe-to-the-state-unemployment-insurance-fund/>