

**HIGHLIGHTS OF  
THE CONTRACTORS' STATE LICENSE BOARD  
LICENSING & ENFORCEMENT COMMITTEE MEETINGS**

**SACRAMENTO, CALIFORNIA  
JANUARY 28, 2010**

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**✦ TWO NEW BOARD MEMBERS – MARK THURMAN & PAUL SCHIFINO**

**✦ ENERGY PERMIT COMPLIANCE PILOT PROGRAM – BUILDING  
PERMIT ENFORCEMENT STUDY**

The Contractors' State License Board held Licensing and Enforcement Committee Meetings in Sacramento, California, on January 28, 2010.

The following are current Board Members:

Acting Chair, Edward "Eddie" Barnes; Secretary, Robert Lamb; Board Members, Robert Brown; Joan Hancock; Matthew Kelly; Louise Kirkbride; Ed Lang; Lisa Miller-Strunk; Bruce Rust; Mark Thurman; and Paul Schifino.

There are four vacant positions on the Board. The vacant positions are currently for a building official, a specialty contractor, a public labor representative, and a public member.

Two new Board Members were appointed. Paul Schifino, from Los Angeles, most recently was President of Junior Steel Company since 2003, and Anvil Steel Corporation since 1996. Paul Schifino is a California licensed contractor as well as an attorney and an adjunct professor at Georgetown University. Paul has taken over Cindy Mithcell's spot on the Board representing C contractors.

Mark Thurman is from Newport Beach. Since 2004, he has been President of ARB Structures. He was also previously President of Pepper Construction Company Pacific. He was also a firefighter specialist for the Orange County Fire Authority as well as a project manager for Miles and Kelley Construction Company. He is currently a member of the Associated General Contractors of California's Board of Directors, Urban Land Institute, Design-Build Institute of American and International Council of Shopping Centers. Mark has taken over Steve Matich's place on the Board representing B contractors.

## **I. LICENSING COMMITTEE REPORT**

### **1. Licensing Program Update**

#### **a. License Application Workload**

In looking at the past ten fiscal years, there was an unusual increase in fiscal year 2004/05, which has been attributed to fingerprint requirements, which went into effect in January 2005. At this point, the number of applications continue to decline. Presumably, the decline is because of layoffs.

#### **b. License Transaction Processing Times**

CSLB Management is still monitoring processing times for the various units on a weekly and monthly basis.

During 2008/09 fiscal year, the Licensing Division used a minimal amount of overtime as compared to previous fiscal years and despite the 15% reduction in staff hours due to furloughs, the Licensing Division has kept up decent processing times.

#### **c. Testing Center Status**

San Diego – This center is increasing its capacity to 28 by relocating to a new space. The new location has been chosen and the construction is nearly complete. The move-in date is scheduled for February 1, 2010. However, we all know that contractors can never stick to their scheduled dates! ☺

Fresno – This office has decided to relocate to increase capacity and resolve some security issues. A new location has been selected, lease negotiations are in progress, and a floor plan for the new location has been approved. Completion is expected in the spring of 2010.

Oxnard – Relocating will be required when the lease expires in August 2010. A new location has been found and a floor plan has been approved. Lease negotiations are in progress. Completion is expected sometime in 2010.

#### **d. Examination Development**

The CSLB Strategic Plan has an ongoing responsibility to ensure that the CSLB licensing examinations are current and appropriate, and that all licensed contractors can show basic business competency skills. The Testing Division's Examination Development Unit manages this obligation by ensuring that the CSLB's 45 examinations are maintained and updated in accordance with testing standards, guidelines and CSLB regulations. The examination development process involves occupational analysis and new examination development.

## II. ENFORCEMENT COMMITTEE REPORT

### 1. Enforcement Program Update

There are currently 13 vacant positions in the Enforcement Division. The staff continues to be aggressive with respect to advertising and recruiting for vacant positions. Somehow, David Fogt made it so that there is one vacancy in each classification.

### 2. Complaint- Handling Highlights

#### a. Intake / Mediation Centers

i. Consumer Services Representative Negotiated \$13,875 Settlement. A licensee was to re-pipe the residence with copper pipe and other plumbing work for \$16,250.00. After work was completed and paid for, the owner noticed deficiencies and workmanship issues. After unsuccessfully attempting to have the contractor come back, the consumer hired another contractor to make repairs and filed both a lawsuit and a complaint with the CSLB. Intervention by the CSLB resulted in a refund to the homeowner of \$13,875.00

ii. A Nationally Known Contractor Acknowledges Poor Workmanship. After a homeowner entered into a contract with a nationally known contractor, the homeowner was unhappy with the workmanship and alleged that incorrect grout color was used and the tub was damaged. This resulted in a refund of \$13,000.00.

#### b. Investigative Centers

i. Determined Investigator ID's Suspect  
Jamal Kassar, an unlicensed contractor, had contracted with a senior citizen to install a video surveillance system for \$3,000.00. The owner was dissatisfied with the product and filed a complaint with the CSLB.

The file was closed for insufficient evidence but the business information was sent to SWIFT to use in future stings. However, the consumer was feisty and demanded that the complaint be reopened. At this point, the San Bernardino Enforcement Representative worked with SWIFT and the suspect was invited to a sting operation in Orange County. Kassar was issued an administrative citation for the bid provided and the senior citizens complaint was referred to the Riverside County District Attorney's Office for criminal prosecution. The matter is currently awaiting trial.

- ii. **Unlicensed Contractors Given Deadline to Pay Restitution.**  
Two unlicensed contractors, Farin and Levy, entered into contracts with two separate victims. One project was for \$145,000.00 and another for \$160,000.00. Both were room additions and the unlicensed contractor collected the majority of the contract amount from escrow companies.

Both projects were abandoned with little work having actually been completed. These unlicensed contractors were convicted in Los Angeles County Superior Court of felony construction theft. A restitution hearing is scheduled in February. By then, they need to come up with \$25,000 for each victim and again nine months later for a total of \$100,000.00 in restitution. If the victims are not paid accordingly, the unlicensed contractors will go straight to jail.

- iii. **Unlicensed Contractor Makes Monthly Payments to Avoid Felony.**  
An unlicensed contractor is making monthly payments so that he will only be charged with a misdemeanor. If he fails to live up to his monthly payments, he will be prosecuted for felony elder abuse and be sent to jail.

c. **General Complaint-Handling Statistics**

- i. **Objective: Maintain Enforcement Representative 1 Production of Closing 10 Complaints Per Month,**  
While the 2008/09 fiscal year averaged over 11 closures per month, the effects of the State budget, furloughs and a shortage of automobiles have started to affect the productivity numbers. The average closures for the first six months of the 2009/10 fiscal year has dropped to 8.45 cases.
- ii. **Objective: Increase the Percentage of Licensee Complaints Settled to 30%.**  
The Enforcement program is below the established goal of setting 30% of licensee complaints. The average for the 2008/09 fiscal year was 27% and for the first six months of the 2009/10 fiscal year the average has dropped to 24.74%.
- iii. **Objective: Dispose of 70% of Licensee Complaints at the Intake Medication Center (IMC).**  
The IMC's continue to exceed the Board's goal of closing 70% of the licensee complaints. The 2008/09 fiscal year average was 73% and the average for the first six months of 2009/10 is 72.85%.
- iv. **Objective: Reduce 270-Day-Old Complaints to 100 or Less.**  
Statewide, the number of complaints aged over 270 days is now 157, exceeding the Board's established goal of 100. This can be attributed to two factors. The first, State budget, furloughs and a lack of automobiles, and the second is the 2009/10 inclusion of the Service and Repair Task Force, Subsequent Arrest Unit and Quality Assurance cases.

- v. Objective: Attorney General Costs.  
For the first six months of the 2009/10 fiscal year, the costs have averaged \$384,989.00. While the year started with very high Attorney General Costs, the average has dropped and the new projections appear to be within the budget allotment.

**3. Proactive Enforcement Update**

- a. Sutter Creek Contractor Pleads Guilty to Diversion of Construction Funds
- b. Repeat Offender Busted in Placer County
- c. Unlicensed Contractor Convicted of Four Felonies Including Elder Financial Abuse
- d. SWIFT Partners With Orange County DA's Office for Revocation
- e. Sting and Sweep Operations
  - i. Staff Conducts Proactive Sweep in 49 Fire Area to Protect Wildfire Victims
  - ii. Southern SWIFT Conducts Formal EEEEC Sweep of Los Angeles Communities

**4. Enforcement Investigative Priorities**

Due to the reduced work hours imposed by the Governor's Executive Order to furlough employees, the CSLB began to prioritize investigations. To date, the workload has been manageable despite the furloughs. A focus group was put together and the investigation priorities for the Enforcement Committee are as follows:

- a. Health and Safety
- b. Disaster Response
- c. Elder Abuse
- d. Unlicensed Practice/Stings/Sweeps
- e. Abandonment
- f. Financial Crimes/Transient Criminals
- g. Workmanship Complaints
- h. Application Investigations
- i. Technical Violations (name style, classification, contract violations)

**5. Secondary Enforcement Responsibilities**

Although the CSLB has served as the lead enforcer of the Business and Professions Code as it pertains to consumer complaints, the CSLB is mandated by statute to partner with other government agencies.

- a. Business and Professions Code Investigation Mandates
  - i. 7109.5 – Violations of Safety Provisions
  - ii. 7110 – Disregard of Violation of Statues
  - iii. 7110.5 -- Initiation of action against contractor after receipt of Labor Commissioner's findings of willful violation of Labor Code
  - iv. 7145.5 – Failure to resolve outstanding liabilities as grounds for refusal to renew license

- v. Labor Code 3099 – Responsibilities of Division of Apprenticeship Standards

## 6. Energy Permit Compliance Pilot Program

The Contractors' State License Board was approached by a coalition of governmental agencies and private utility companies to plan for enforcement of new Title 24 requirements effective January 1, 2010. The CSLB has been asked to help implement the new requirement to insure that C-20 contractors performing repair or replacement of heating, ventilation and air conditioning systems comply with Title 24 and the Contractors' License Law.

Some have estimated that building permits are taken out for only 5 – 10% of all residential HVAC installations that require a permit. It is suspected that many of these installations may be substandard. This results in wasted energy, not to mention failures and potential life safety risks. Based on what is going on in the industry now, it is expected that compliance will be even lower. The group wishes to increase the compliance substantially.

The most important approaches to increase the compliance are

1. Simplify the compliance process,
2. Educate contractors and the building code officials;
3. Educate homeowners; and
4. Improve enforcement.

As a result, the strategy is to go forward with undercover sting operations targeting licensed and unlicensed contractors suspected of performing HVAC repairs or replacements of existing systems without obtaining required building permits.

They group will identify and contact certain building departments to determine how many C-20 permits were issued during the past twelve months and they will have any specific contractors that they want to target. They will also prepare a statistical report to measure the C-20 request.

The group will develop an industry bulletin to advise licensees with a business address in the vicinity of chosen cities. They will identify sting targets. CSLB investigators from each jurisdiction will research sting targets and conduct sting operations.

Rick Lopes or someone from the CSLB staff will partner with someone from the Public Utilities Commission to develop television and radio ads and produce press releases and conduct press conferences.

A Building Permit Enforcement Study is being prepared. This seems to be a real good way to go.

## 7. Premium Insurance Task Force Update

On September 21, 2009, the CSLB held a meeting with industry representatives to unveil a project that would allow for stings to be performed in ten counties, working closely with district attorneys to combat worker's compensation insurance violations committed by both licensed and unlicensed contractors. The CSLB has seen a significant increase in the amount of complaints against licensed contractors pertaining to insurance fraud, cash pay, etc.

On November 12, 2009, the Board approved partnering with district attorney investigators and prosecutors they comprise the Premium Insurance Fraud Task Force, funded by the Department of Insurance.

More information will be given when the undercover work is completed.

Attorney Sam Abdulaziz of Abdulaziz, Grossbart & Rudman has been practicing construction law for over 30 years. He has written a book called "California Construction Law" which is updated annually. He represents numerous construction trade associations and contractors. He appears at Contractors State License Board meetings and has argued a number of cases before the appellate courts, including the California Supreme Court dealing with the "Pay-If-Paid Clause." Abdulaziz,

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