

MARCH 26, 2013
SACRAMENTO, CALIFORNIA



CONTRACTORS STATE LICENSE BOARD

Enforcement
Committee Meeting





CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, CA 95827

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STATE OF CALIFORNIA

Governor Edmund G. Brown Jr.

NOTICE OF ENFORCEMENT COMMITTEE MEETING

The Contractors State License Board (CSLB) will hold an Enforcement Committee meeting on Tuesday, March 26, 2013, from 1:00 p.m. to 4:00 p.m. in the John C. Hall Hearing Room located at CSLB Headquarters, 9821 Business Park Drive, Sacramento, CA 95827.

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be cancelled without notice. For verification of the meeting, call (916) 255-4000 or access the Board's website at <http://www.cslb.ca.gov>. Action may be taken on any item listed on this agenda, including information-only items. Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is open and the public is invited to attend. Meetings are accessible to the physically disabled. Anyone who needs a disability-related accommodation or modification to participate may make a request by calling (916) 255-4000 or by sending a written request to the CSLB Executive Office, 9821 Business Park Drive, Sacramento, CA 95827. Providing your request at least five business days prior to the meeting will help ensure availability of the requested accommodation.

Members of the Board who are not members of the Committee may attend the Committee meeting.

ENFORCEMENT COMMITTEE MEETING AGENDA

1:00 p.m.

Enforcement Committee Members

David Dias, Chair / Pastor Herrera Jr. / Matthew Kelly / Ed Lang / James Miller / Frank Schetter

- A. Call to Order – Chair's Remarks
- B. Public Comment Session
- C. Enforcement Program Update
- D. Review and Discussion Regarding CSLB and Caltrans Information Sharing and Enforcement Strategies Presentation by Angela Shell, Caltrans Chief of Contract Compliance
- E. Review and Discussion Regarding CSLB Complaint Prioritization
- F. Review and Recommendation Regarding Electrician Certification Enforcement Strategies and Revision of the Industry Bulletin
- G. Update on the Qualifier Task Force
- H. Adjournment

AGENDA ITEM A

Call to Order – Chair’s Remarks

Roll is called by the Committee Chair.

ENFORCEMENT COMMITTEE MEMBERS:

DAVID DIAS, CHAIR

PASTOR HERRERA JR.

MATTHEW KELLY

ED LANG

JAMES MILLER

FRANK SCHETTER

Committee Chair David Dias will review the scheduled Board actions and make appropriate announcements.



AGENDA ITEM B

Public Comment Session

Members of the public may address the committee at this time.
The Committee Chair may allow public participation
during other agenda items.



AGENDA ITEM C

Enforcement Program Update





CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT PROGRAM UPDATE

VACANCY UPDATE

Staff continues to proactively advertise and recruit for vacant positions. The Enforcement division had 15 vacant positions as of March 15, 2013.

UNIT	CLASSIFICATION	# OF VACANCIES	CURRENT STATUS
Enforcement Executive	Enforcement Supervisor II	1	Recruitment Pending
Sacramento IMC	Consumer Services Representative	3	Recruitment in Progress
Sacramento IC - South	Enforcement Representative I	1	Currently Advertised
Sacramento IC - North	Enforcement Representative – Peace Officer	1	Currently Advertised
Sacramento IC - North	Office Technician	1	Currently Advertised
San Francisco IC	Enforcement Representative I/II	2	Recruitment In Progress
San Diego IC	Enforcement Representative I	1	Recruitment In Progress
San Bernardino IC	Enforcement Representative I	1	Pending DCA Approval
Northern SWIFT	Enforcement Representative II	1	Pending DCA Approval
Southern SWIFT	Enforcement Representative II – Peace Officer	1	Pending Background
Sacramento Case Management	Enforcement Representative I	2	Pending DCA Approval



TRAINING UPDATE

As part of CSLB's Strategic Plan, the Enforcement division has an ongoing commitment to create a training curriculum for staff that includes basic enforcement procedures, a mentoring program, and specialized training. Following is a list of training that has been conducted during the 2012 calendar year:

- 1. Module 1: Basic Investigative Techniques** **January – June 2012**
This course was developed by CSLB management staff in conjunction with retired annuitant Doug Galbraith and Deputy Attorney General Michael Franklin. The course is an 8-hour block of instruction on basic investigative techniques, roles and responsibilities of an investigator, effective case management, overview of rules of evidence, and elements to Business and Professions (B&P) Code sections: 7107 (abandonment), 7116 (fraud), and 7125.4 (false reporting of a workers' compensation [WC] insurance exemption certificate).
- 2. Module 2: Interview Techniques** **January – June 2012**
This course is designed to enhance enforcement representatives' (ERs) interview techniques; understand the importance of obtaining accurate statements, admissions, and confessions; and prepare to provide expert testimony in court and at administrative hearings. The course includes a workshop for participants to test their interview skills in several CSLB-related scenarios.
- 3. Bankruptcy Case Law & Impact on Enforcement** **February 2012**
This one-day course was provided by Supervising Deputy Attorney General (SDAG) Marc Greenbaum and his staff. The training included an overview of bankruptcy case law and the impact that a bankruptcy filing has on CSLB Enforcement actions and a consumer's ability to recover financial restitution.
- 4. Security Assessments for Enforcement Staff** **February 2012**
Dr. Steve Albrecht discussed workplace violence in addition to violence as a process. Staff learned techniques to identify "danger zones" in the field, the importance of pre-planning, scene containment, and scene management. This training helps staff effectively document threatening statements and behaviors.
- 5. Northern California Fraud Investigators Association** **March 2012**
This three-day course brought together law enforcement, prosecutors, civil attorneys, corporate leaders, insurance personnel, and designated Enforcement staff to address common issues in the fight against fraud. Last year's conference featured over 40 guest speakers and had more than 400 attendees. Annual anti-fraud education and networking are fundamental to prosecuting fraud and related crimes.
- 6. Improving Enforcement Skills** **April 2012**
Enforcement staff was invited to learn about interpersonal dynamics and emotional intelligence in this training given by Sommer Kehrl, Ph.D. Training highlights included personal and social competence skills along with self-management skills that play key roles in successful job performance.



- 7. Advanced Negotiation** **April 2012**
This interactive seminar focused on advanced techniques and principles for improving negotiation effectiveness. Designated staff attended this training, which concentrated on sharpening existing skills and deepening practical and theoretical knowledge of fundamental principles of successful negotiation.
- 8. Supervisor Training** **June 2012**
Enforcement supervisors were invited to attend the Centre for Organizational Effectiveness' Enforcement Supervisor I training held in Sacramento and Norwalk. Supervisors brushed up on techniques to improve their supervisory skills. Enforcement managers served as presenters during the training, discussing CSLB challenges and changes.
- 9. Basic National Certified Investigator/Inspector Training (NCIT)** **June 2012**
This three-day course provided hands-on training and a certification program in investigation and inspection techniques and procedures. Staff learned specifics regarding professional conduct, principles of administrative law and the regulatory process, the investigative process, and the principles of evidence. In addition, investigators were instructed on interview techniques, report writing, and testifying in administrative and criminal proceedings. Upon completion of the course and successful completion of the final exam, ERs received certification by the Council on Licensure, Enforcement and Regulation (CLEAR).
- 10. Module 3: Effective Report Writing** **September 2012**
This course was designed to assist ERs by enhancing their writing skills so they can create professional, accurate, and complete investigative reports. Emphasis was on credibility, proofreading, and ensuring findings will pass scrutiny during a trial or hearing. The class included a practical report-writing exercise and an exercise where participants engaged in a mock trial.
- 11. Elder Abuse Training** **September 2012**
This two-day course, offered to CSLB peace officers, gave an in-depth look at gypsy and traveler crime, "non-traditional organized crime" groups, crimes committed against the elderly, ruse entry and impostor burglaries, and how to deal with investigative impediments.
- 12. Improving Employee Performance & Accountability** **September/October 2012**
This two-day course, offered by CPS for Enforcement supervisors and managers, encompassed the importance of job documentation, communicating expectations, and coaching employees to ensure success. Participants learned steps to identify and establish performance measurements and conduct the Performance Appraisal/Individual Development Plan. Most important, participants learned how to motivate employees to change behavior, and the steps to sustain performance levels.
- 13. DCA's Enforcement Academy** **October/November 2012**
DCA's Enforcement Academy provides a solid, standard baseline of knowledge and practices for employees who perform enforcement functions while creating an opportunity for individuals from all DCA's boards, bureaus and divisions to network and learn from one another. The Academy is one week long and must be attended in its entirety for successful completion.

**14. Enforcement Supervisor I and II Team Building Workshop** **October 2012**

This one-day course, offered by the Centre for Organization Effectiveness, was designed to assist with bridging and team-building between ES Is and ES IIs. Attendees learned ways to improve working relationships and develop strategies to ensure statewide continuity regarding employee hiring, case reviews, calendars, and work expectations.

15. Professional Assistants Academy **December 2012**

This two-day course, offered by the Centre for Organization Effectiveness, included presentations and group activities on the following topics: the changing role of the office professional; understanding interpersonal style differences; creating a positive image; service orientation; organizational savvy; characteristics of high-performing teams; a writing, proofing and editing lab; career management; communication skills; and negotiation and conflict resolution skills. This course was successful in southern California last year and is now being offered to Office Assistants, Office Technicians, and Program Technicians in northern California.

16. CSLB's Penal Code 832 Equivalent Course **January/February 2013**

This four-day course focused on the Laws of Arrest, Search and Seizure class. The class was offered to northern California staff on January 7-10 in Sacramento and to southern staff in West Covina February 4-7. The course is similar to the POST course, excluding the hands-on physical methods of arrest (handcuffing and control holds). Staff was required to pass a final exam. Retired annuitant instructor Doug Galbraith, who has taught POST's PC832 class for many years at a community college, taught this course.

17. Peace Officer Use of Force **March 2013**

Peace officers attended a two-day Use of Force course. Instructor Doug Galbraith provided a refresher on Laws of Arrest, Search and Seizure while Instructor Greg Hamway reviewed policy training on handcuffing, O/C spray, ASP, soft-body armor, and transporting prisoners. The peace officers also were fitted for soft-body armor and issued safety equipment.

PLANNED TRAINING

The following training is proposed for fiscal year (FY) 2012-13:

1. Consumer Fraud Investigation **April 2013**

Riverside County Senior Deputy District Attorney Elise Farrell will provide training to enforcement representatives in Riverside, Norwalk and Sacramento. Attendees will be trained to identify cases for criminal referral and what elements are needed when referring a case. She also will give tips for presenting cases to the District Attorney.

2. Effective Business Writing **May 2013**

SOLID will provide this course to staff in the Norwalk office. Through practical hands-on exercises, staff will develop the skills to write clear, complete content in order to convey a credible message and project a professional image. Class topics include: Preparing business letters, memos, and professional email; developing an appropriate tone for your audience and purpose; organizing information and pre-writing; and revising and proofreading your work.



INTAKE AND MEDIATION CENTERS

**IMCs
Financial Settlement Amount
FY 2012-13**

• \$ 5,421,853.53

Bad Asphalt Job Ends In Full Refund

A contractor offered to patch a homeowner's driveway for \$7,000, using "leftover asphalt." The homeowner agreed to the verbal contract and paid the \$7,000, plus an additional \$1,000 to patch areas around the front gate. After a few months, the asphalt began to decompose, becoming gravel-like. The homeowner contacted the contractor and demanded a full refund. When the contractor refused to refund the full \$8,000, the homeowner filed a complaint with CSLB. The contractor immediately told the CSR that the homeowner was being unreasonable and that he had already offered the homeowner a partial refund of \$2,000 to resolve the situation. The CSR reminded the contractor that he had failed to provide a written contract, and discussed the poor workmanship issues, resulting in the contractor providing the homeowner a full refund and being issued a warning letter for the apparent violations.

Mediation Prompts Contractor to Pay for Service

A trucking company filed a complaint against a contractor who hired him to deliver gravel to a large project for the Ventura County Watershed Protection District. The trucking company hauled gravel to the project from December 2011 through October 2012, for a total cost of \$684,916. After paying \$483,174, the contractor decided that he did not want to pay the balance to the trucking company. The assigned CSR discussed the apparent violations with the contractor and negotiated a settlement, resulting in the remaining balance of \$201,741 being paid to the trucking company.

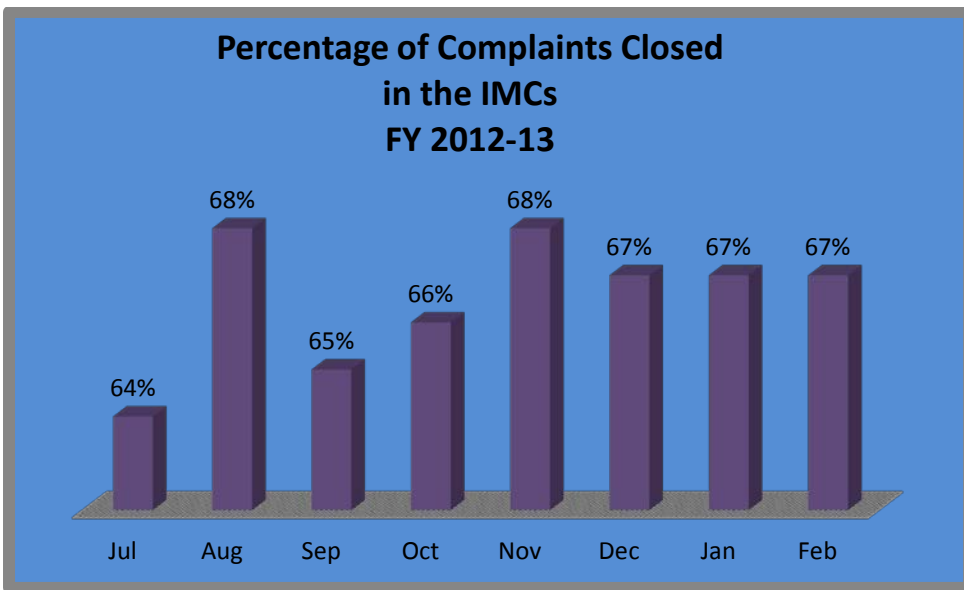
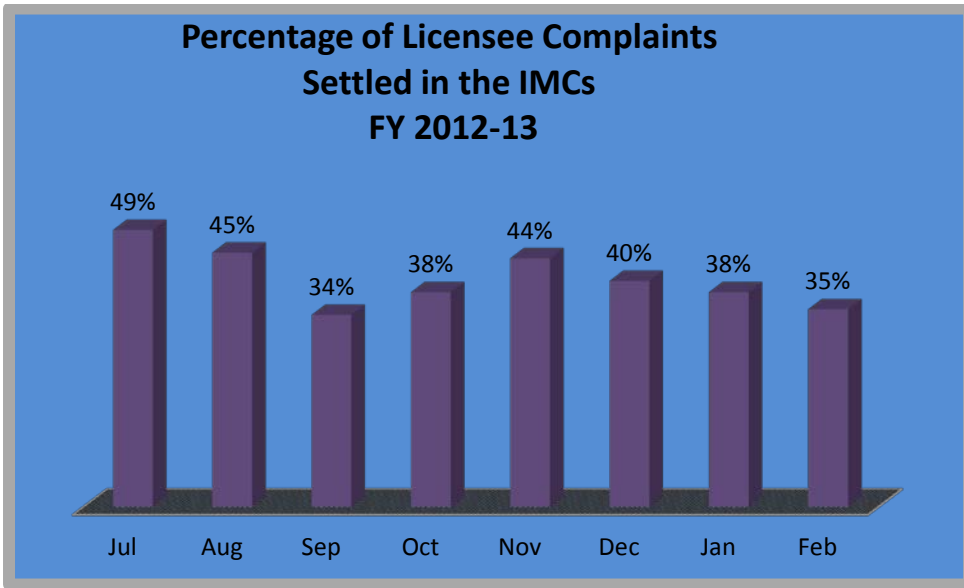
IMC STATISTICS

IMC Caseloads

The Board objective is for CSRs to mediate and or refer the majority of complaints received within 60 days, with no cases exceeding 90 days. Therefore, the maximum working case load for CSRs has been established at 40 complaints per CSR. CSLB has 30 CSRs, therefore, the two Intake and Mediation Centers have the capacity for 1200 open complaints. As of March 1, 2013, IMCs had a working case load of 1,197 complaints.

Settled Complaints in the IMCs

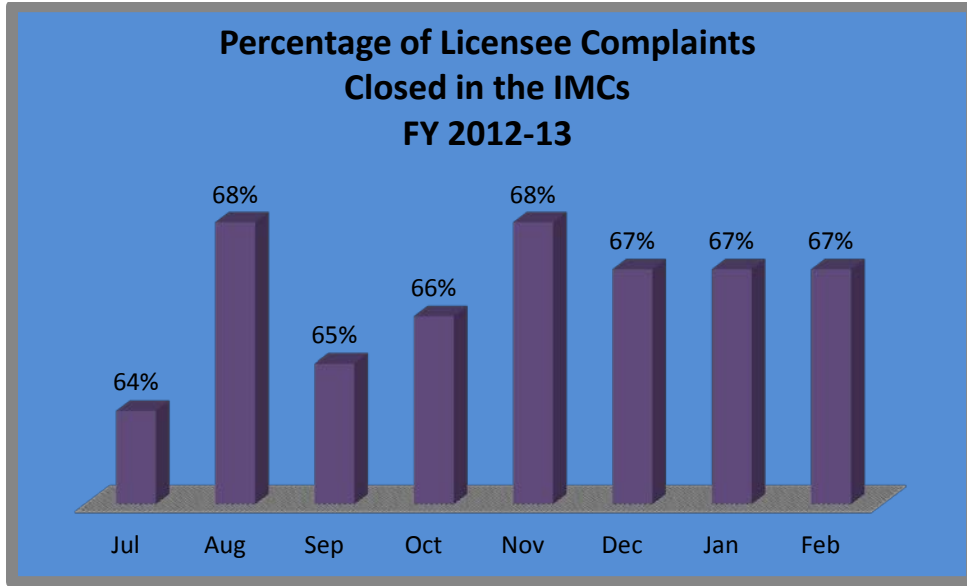
The Board's objective is to settle 30 percent of licensee complaints with restitution paid to financially injured parties. During FY 2012-13, IMC staff exceeded the goal, settling an average of 40 percent of licensee complaints.





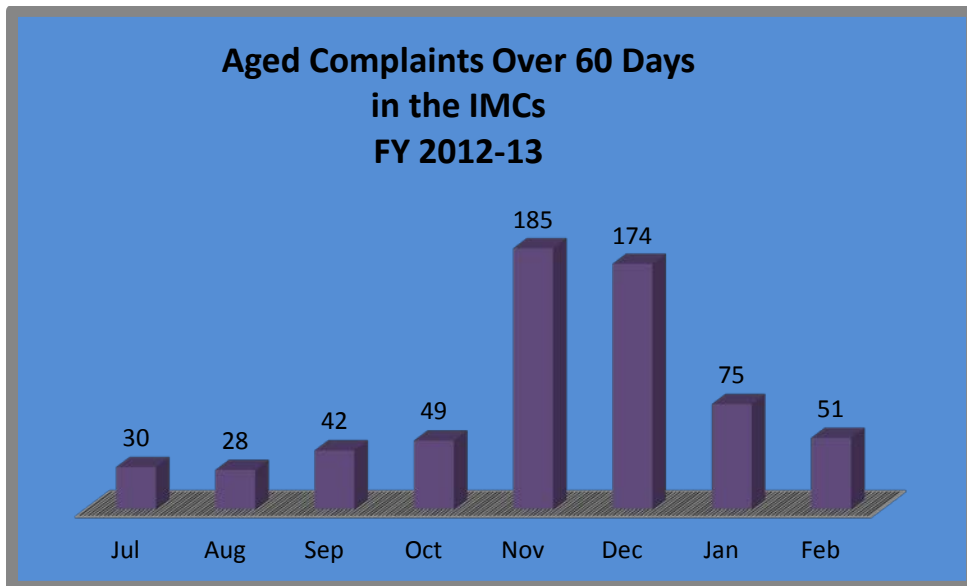
Licensee Complaints Closed in the IMC

The Board’s objective is to disposition 70 percent of licensee complaints in the IMCs. During FY 2012-13, IMC staff has nearly met the objective, settling an average of 67 percent of licensee complaints.



Aged Complaints Over 60 Days in the IMC

The Board’s objective is to disposition or refer to the field within 60 days of receipt the more than 1,000 complaints received each month in the IMCs.





Investigative Centers

Investigative Centers Financial Settlement Amount FY 2012-13

• \$ 2,452,071.93

Unlicensed Contractor Gets Six Months Behind Bars, Accomplices Also Convicted

A San Bernardino Investigative Center (IC) enforcement representative (ER), partnering with Riverside County District Attorney's (DA's) office, investigated six consumer complaints filed against notorious repeat offender Daniel Porter in the city of Eastvale. Prior to the complaints being filed, Riverside Superior Court records indicate that in November 2010, Porter was previously convicted for violation of B&P Code section 7028, Contracting Without a License, and B&P Code section 7027.3, Fraudulent Use of a License Number, and was sentenced to summary probation between November 15, 2010, and November 14, 2013, and ordered to obey all laws.

Despite the conviction, Porter continued to contract without a license between November 2010 and March 2011, aided and abetted by a licensee, Robert Blades dba Strait Line Construction, license #947270. Blades allowed Porter to illegally sell concrete flatwork and landscape projects, and Blades was paid between \$200 to \$300 for each job from Porter. Porter's profit on each project averaged between \$500 to \$600. Porter also elicited the assistance of another unlicensed contractor, Alfredo Ceballos, to provide the labor to complete the concrete and landscaping work. Altogether, Porter had entered into contracts with six Eastvale residents for approximately \$38,500.

An aggrieved prior victim informed neighbors that Porter was unlicensed, and the Riverside County DA's office was informed of Porter's alleged violation of probation. In turn, the Riverside County DA's office sought the assistance of the San Bernardino IC. Working closely with Deputy District Attorney (DDA) Lauren Dossey, the assigned ER completed the investigations of the Eastvale complaints and referred the investigation reports for criminal filings for violation of B&P Code section 7028(c), Unlicensed Contracting with Previous Conviction; B& P Code section 7027.3, Fraudulent Use of a License Number, B&P Code section 7153, Selling without Registration; and B&P Code section 7159.5(a)(3), Excessive Down Payment.

On February 21, 2013, Porter pleaded guilty to one count of unlicensed contracting with a previous conviction and fraudulent use of an incorrect license number. DDA Dossey advised that Porter will be incarcerated for 180 days and serve three years felony probation. Blades pleaded guilty to misdemeanor violations of B&P Code sections 7027.3 and B&P 119(d) for aiding and abetting Porter, and will be incarcerated for 60 days and serve misdemeanor probation of three years. In addition, Blades' license was revoked, effective October 8, 2012. Ceballos, who provided the labor, pleaded to misdemeanor B&P Code § 7028, and will be incarcerated for 30 days and serve misdemeanor probation of three years. In addition, victim restitution must be paid by all defendants, and formal sentencing was scheduled for March 19, 2013, in Riverside County Superior Court.



Plans Go Awry but the RMO is in Denial

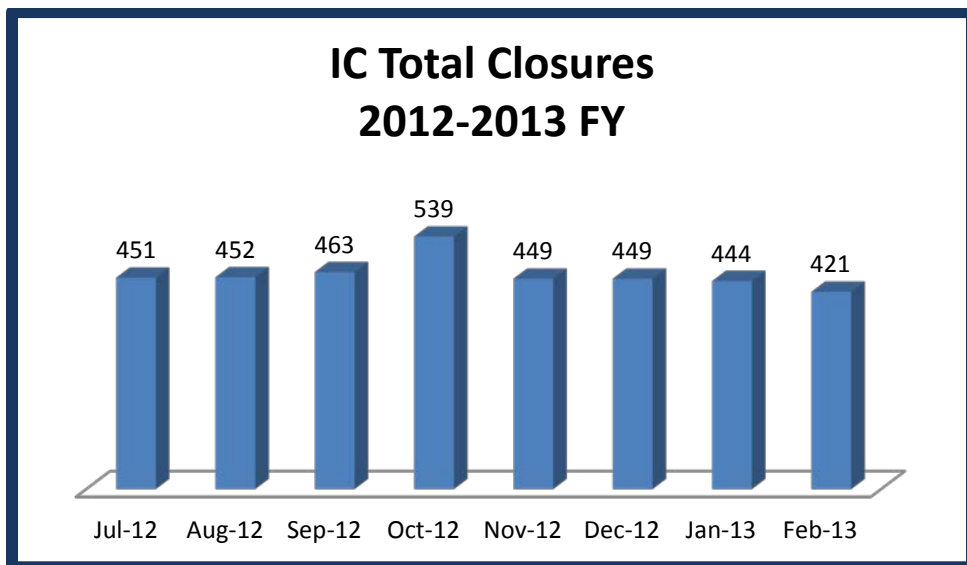
In November 2011, Norberto Andrade, CEO of Andrade Construction Inc., entered into a \$27,500 contract to build a new garage at a Burlingame residence and received payments totaling \$7,000 for the purpose of preparing plans and obtaining a building permit. Months went by with the homeowner receiving a lot of promises from Andrade but no plans. After confirming with the building department in July 2012 that an application for a permit had not been submitted, the homeowner requested his money back, but to no avail.

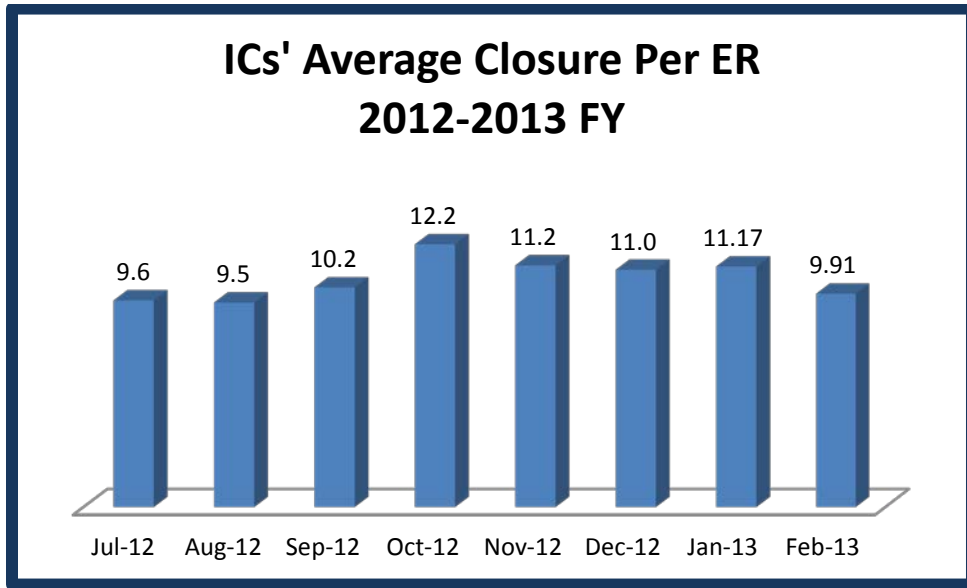
During the investigation, Andrade told the assigned San Francisco IC ER that he was about to submit the plans to the building department when the owner canceled the contract. Andrade also said he would refund the \$7,000 by early December but failed to return the money. The RMO for the license, Joao Vicente, claimed to know nothing about the project and stated that he was not involved in the operations of the business. While acknowledging he signed the application for the license, Vicente claimed to not understand his responsibility or liability until around the time he disassociated from the license in August 2012. Notwithstanding being told that a disciplinary action would affect his individual license, Vicente did not offer to resolve the complaint.

On February 20, 2013, an accusation was filed, alleging abandonment, a willful act causing injury and receiving payments in excess of the value of work performed. Further, a violation of B&P Code section 7068.1, Failure to Exercise Qualifier’s Responsibility, was alleged, as Vicente failed to exercise direct supervision and control.

INVESTIGATIVE CENTER PENDING COMPLAINTS

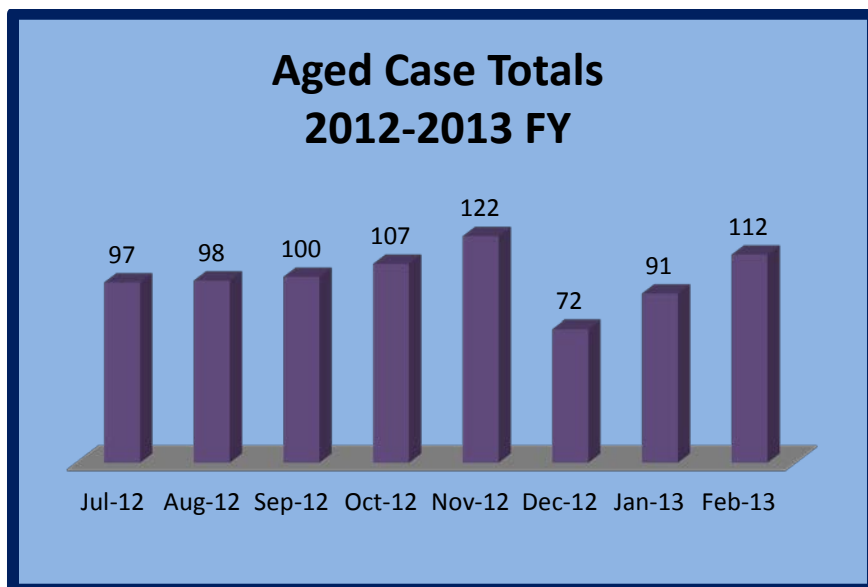
The Board objective is for ERs assigned to the nine investigative centers (ICs) to investigate and appropriately disposition nine complaints per month (ten per month when furloughs are eliminated). The maximum working case load for ERs has been established at 35 per ER. CSLB has 60 ERs; therefore, the nine ICs have the capacity for 2,100 open complaints. As of March 1st 2013, the ICs had a total of 2,043 complaints open and under investigation.





IC AGED CASES

The ICs continue to meet the Board's objective of having 100 or fewer aged complaints. As of February 2013, there were 112 aged cases statewide due to unforeseen staffing shortages. The San Bernardino IC lost half of its staff; one ER was attending the 17-week Goldenwest Academy; another ER transferred elsewhere; and, other ERs are out on medical leave. IC staff continues to work hard to meet goals and expectations, successfully overcoming obstacles and challenges that arise.





CASE MANAGEMENT

Case Management has statewide responsibility for processing accusations, citations, appeals of denied license applications (Statement of Issues), CSLB-sponsored arbitration referrals, and monitors licensees' compliance status with the Board's disciplinary actions. To reduce costs, Case Management employs Mandatory Settlement Conferences (MSCs) as a cost-saving measure to resolve administrative disciplinary actions without incurring formal hearing costs. MSCs reduce Attorney General (AG) costs and result in injured consumers being made financially whole. The following charts demonstrate the arbitrations, citations, MSCs, and accusations/statements of issues tracked by Case Management.

FISCAL YEAR 2012-13

ARBITRATION	
Arbitration Cases Initiated	272
Arbitration Decisions Received	248
Licenses Revoked for Non-Compliance	52
Arbitration Savings to the Public – Restitution	\$963,119.10

CITATIONS ISSUED		
	Licensee	Non-Licensee
Citations Issued	458	538
Citations Appealed	190	221
Citation Compliance	275	256
MANDATORY SETTLEMENT CONFERENCES		
Scheduled	161	
Settled	103	
Civil Penalties Collected	\$586,103	
Total Savings to the Public	\$774,434	

ACCUSATIONS / STATEMENTS OF ISSUES	
Revocations by Accusation (Applicants Revoked)	270
Restitution for Accusations	\$94,475.00



Statement of Issues (Applicants Denied)	35
Cost Recovery Received	\$105,119.82
Number of Cases Opened	292
Number of Accusations/Statements of Issues Filed	197
Number of Proposed Decisions Received	61
Number of Stipulations Received	54
Number of Defaults Received	102
Number of Decisions Mailed	247

STATEWIDE INVESTIGATIVE FRAUD TEAM

Spring Blitz

Nearly 80 people face criminal charges after being caught in simultaneous statewide undercover sting operations conducted on March 13 and 14. Among those arrested during the spring blitz were a registered sex offender, a suspect with a prior conviction for statutory rape, an individual with an active arrest warrant for corporal punishment of a minor child, one on federal probation for bribery, and several caught using contractor license numbers not belonging to them.

SWIFT Investigators conducted stings in Orange (Orange County), Lawndale (Los Angeles County), San Bernardino (San Bernardino County), Chico (Butte County), Oakdale (Stanislaus County), and Bakersfield (Kern County). They posed as homeowners seeking bids for home improvements such as painting, electrical, landscaping, flooring, drywall, swimming pool maintenance, concrete, masonry, and tree removal work.

A total of 78 individuals were arrested and now may face misdemeanor charges of contracting without a license (Business and Professions Code section 7028). Fifty-seven of the individuals also may be charged with illegal advertising (Business and Professions Code section 7027.1). Twenty-four others may be charged with requesting an excessive down payment (Business and Professions Code section 7159.5). Thirteen of the phony contractors also were issued Stop Orders (Business and Professions Code section 7127).

Eight Unlicensed Contractors Caught in San Jose

“Front-loading,” or asking for an excessive down payment, was one of the violations found during a sting operation conducted in February in San Jose. One of the eight unlicensed individuals caught during the sting bid on a patio project by asking for a down payment of \$7,000, or more than 30 percent of the project. Other bids were submitted for painting, electrical, drywall, landscaping, and concrete work during the operation. All eight suspects face misdemeanor charges of contracting without a license and seven face an additional misdemeanor charge of illegal advertising.



Northern SWIFT Lead Response Results in \$100,000 Arrest Warrant

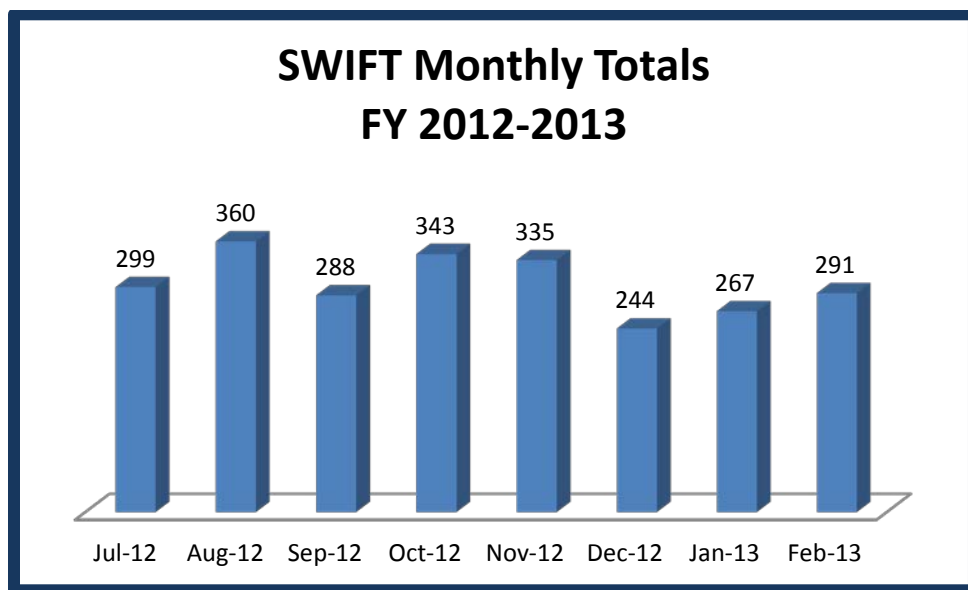
In December 2010, Sandra Greenwell and her son, Jaime, formed Los Gatos Group LLC (Nevada) for the purpose of building a residential home in Los Gatos and enlisted a number of investors to provide financial backing for the project, valued at \$3.2 million. Neither the Greenwells nor Los Gatos Group LLC are licensed contractors. One of the investors loaned the LLC \$670,000 and later audited the bank account and noted that Ms. Greenwell had written checks to herself and paid her personal American Express bill, totaling \$23,500, with construction account funds.

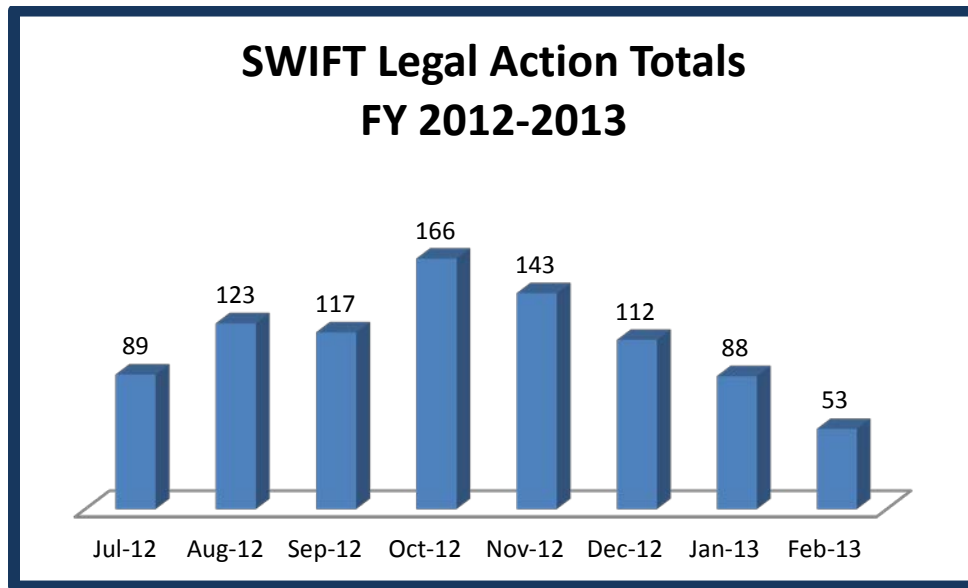
The investigation by a Northern Statewide Investigative Fraud Team (SWIFT) ER revealed that Ms. Greenwell listed Alarcon Construction as the general contractor on permits without Alarcon’s permission. The investigation also revealed that she entered into a contract with John Losoya Construction, Inc. to frame the residence for \$46,102. During requested draws, Ms. Greenwell twice wrote Losoya checks for \$10,000 in excess of the draws and asked him to write checks back to her sister company, totaling \$20,000. Greenwell acted in the capacity of a contractor without the required license and diverted money on at least two occasions.

The ER submitted the case to the Santa Clara County DA’s office, resulting in felony charges filed against Sandra Greenwell for violation of Penal Code §484(B) Diversion of Construction Funds, §484/487(A) Grand Theft; and misdemeanor charges of B&P Code section 7027.3, Fraudulent Use of a License Number; and B&P Code section 7028, Contracting Without a License. On February 5, 2013, a \$100,000 arrest warrant was issued for Sandra Greenwell’s arrest.

SWIFT Statistics

The following chart includes Statewide Investigative Fraud Team (SWIFT) response to leads as well as undercover sting and sweep operations with partner agencies and local law enforcement. Between July and February 2013, SWIFT closed a total of 2,427 complaints. SWIFT staff initiated 891 legal actions (criminal and administrative) for the same time period.





Butte County Enforcement Partnership

A unique Enforcement partnership has been developed in Butte County among local contractors, building departments, and law enforcement. This successful partnership focuses on the underground economy. The partnership started with concerned contractors soliciting assistance from CSLB to help weed out illegal and unlicensed contractors in the area.

Butte County Board of Supervisors

On August 9, 2011, the Butte County Board of Supervisors approved a resolution adopting a pilot program and permitting measures to promote workers' compensation insurance coverage for contractors and owner-builders that obtained pool and roofing permits. The program initially ran for 12 months, expiring August 9, 2012.

The resolution included the following language:

- All pool permits shall require verifiable proof of active workers' compensation insurance coverage of all applicants (contractors, owner(s)/builder(s), etc.).
- Roofing permits applied for by owner(s)-builder(s) who claim exemption from workers' compensation coverage shall be advised that the Contractors State License Board shall be notified when an exemption is claimed, which may result in a site visit by a CSLB investigator to verify their exempt status.
- Permits shall be required for "re-plastering" of both residential and commercial swimming pools at a flat fee, which will be \$64.50.

The pilot program's success resulted in the Board's resolution being extended for three more years, and a new termination date of December 31, 2015.



Butte County Building Department and DA

As a result of the Butte County Supervisors' resolution, CSLB developed an extremely successful partnership with the Butte County DA and Building Department, resulting in prioritized enforcement of C-39 Roofing contractors, C-29 Masonry contractors, and C-53 Swimming Pool contractors. Butte County provides a link on its website for informants to file complaints against contractors, and the Butte County DA and Building Department routinely assist CSLB in investigating and enforcing licensure and WC requirements, identifying suspects, checking prior criminal activity, providing peace officer back-up for undercover operations, and providing permit records and leads relating to suspect owner-builder project sites.

CSLB has a SWIFT ER working from the Butte County Building Department to assist with the county's prioritized enforcement, and to interact directly with contractors to obtain information regarding unpermitted project sites, and contractor without proper WC insurance for employees.

Citizen Volunteers Trained to Recognize and Report Unlicensed Practice

In March 1993, the Butte County Sheriff's Office started the Sheriff's Team of Active Retired Seniors (STARS), comprised of a small group of 16 original volunteers. Since that time, the STARS program has blossomed into a team of 130 senior citizens, who are dedicated to serving their communities. Volunteers must be 50 years of age or older and able to donate four hours of free time per week to the program. Senior volunteers work closely with law enforcement in a variety of non-hazardous activities, helping to make their communities a safer place.

On September 27, 2012, Enforcement Chief David Fogt and Northern SWIFT ER Tom Cunningham conducted three training sessions for more than 60 STARS volunteers to recognize and report unlicensed practice. The training included recognizing, reporting, and gathering evidence to report unlicensed practice, elder abuse, and fraudulent activity. STARS volunteers were provided with a *Quick Check* informational sheet that outlines CSLB violations and where to report illegal activity. The training was such a success that Enforcement staff was asked to consider providing similar training to another 600+ volunteers.

New Butte County Enforcement Strategies for 2013

SWIFT's Butte County ER participates in the Joint Enforcement Strike Force (JESF), which is a coalition of government enforcement agencies established in January 1995 that works together to share information and resources to enforce license, tax, and workers' compensation insurance requirements, and ensure a level playing field for California businesses. JESF members include CSLB, the Employment Development Department (EDD), Department of Insurance (CDI), Franchise Tax Board (FTB), Board of Equalization (BOE), and Department of Justice (DOJ). The following new JESF operations are proposed for 2013:

- **Weekend Operations** - To address unlawful construction activity that is reportedly performed on weekends, SWIFT staff will be conducting weekend operations. Informants and other sources have shared that those operating within the underground economy are too familiar with the weekday method of operation of the SWIFT unit. To counteract this trend, and avoid detection, overtime compensation was approved by CSLB management that will allow enforcement work to be conducted on Saturdays and Sundays. A minimum of one weekend operation in the northern, central, and southern part of the state will be conducted each month.



- **Simultaneous Sting/Targeted Sweeps** – A new type of JESF operation will be conducted in Butte County during 2013 that will include simultaneous undercover sting and targeted sweep operations conducted by the CSLB's SWIFT and partner agencies. Specific partners for these operations will include CDI, EDD, and the Butte County DA's Office.

The operations will target the primary violations of unlicensed practice, failure to carry proper WC insurance, premium fraud, and failure to register and report employees.

Local Contractor Participation

Rick Clements, a Butte County contractor, has personally put forth a tremendous effort to combat the county's underground economy. Mr. Clements held meetings with Butte County Supervisors and Building Department officials and was instrumental in getting the aforementioned resolution passed for enhanced enforcement of WC requirements. During an appearance before the Butte County Board of Supervisors, Mr. Clements thanked Chief Fogt for his dedication to enforcement in Butte County and his assistance in getting the resolution passed.

The Valley Contractors Exchange, a nonprofit association of contractors and construction professionals, continues to assist enforcement efforts by reporting unpermitted projects.

Valley Contractors Exchange (VCE) is a member-operated, non-profit association of contractors and construction professionals in Butte, Yuba, and Sutter counties. Kate Leyden, VCE's executive director, regularly attends Board meetings, Construction Enforcement Coalition meetings, as well as other industry meetings, providing relevant input, leads, and support for new initiatives. In addition, Ms. Leyden has assisted in securing sites to perform undercover sting operations and always seems to find new, innovative ways to assist CSLB in combatting the underground economy.

The active partnerships in Butte County require CSLB to respond timely to leads and quickly communicate the disposition upon completion of the investigation. Unfortunately, current resources do not always allow for immediate response times; however, CSLB places a high priority on responding to our Butte County partners and will continue to make every effort to strengthen and enhance joint enforcement efforts.

AGENDA ITEM D

Review and Discussion Regarding CSLB and Caltrans Information Sharing and Enforcement Strategies



Presentation by
Angela Shell, Caltrans Chief
of Contract Compliance





CSLB-Caltrans Collaboration

Enforcement staff met with Caltrans to design a collaborative method to help train Caltrans staff who sign contracts so they are better informed as to when a state contractor license is required. Below are examples of the value of this new CSLB-Caltrans effort.

Reza Mohammadi dba Southland Construction

Caltrans filed complaints against Reza Mohammadi, dba Southland Construction, for Labor Code violations that include §1774, Failure to Pay Prevailing Wages; §1773.1, Failure to Pay with Benefit Payments, including Per Diem Wages; §1777.5, Failure to Comply with Statutes Regarding Employment of Apprentices; and §1815, Failure to Pay Compensation in Excess of Hour Limitations. Caltrans and Mohammadi entered into a stipulated agreement, whereby Mohammadi paid employees and agreed not to bid or work on Caltrans projects until January 1, 2018. However, the Orange County District Attorney (OCDA) filed criminal charges against Mohammadi, including 15 felony counts of failing to file a return with the intent to evade taxes, 15 felony counts of willful failure to pay tax, seven felony counts of taking and receiving a portion of a worker's wage on public work, six felony counts of recording false and forged instruments, and three felony counts of filing false tax returns. The Orange County Grand Jury indicted Mohammadi on April 26, 2012, and he was arraigned on May 23, 2012. Mohammadi faces sentencing enhancement allegations for loss exceeding \$100,000 and property damage over \$200,000 and a prior strike conviction for criminal threats in 1999. If convicted on all counts, he faces a maximum sentence of 48 years in state prison. CSLB has referred three cases to the Attorney General's office for an accusation of violations that include conviction of a substantially related crime and Labor Code violations. The criminal matter is pending, and the next hearing is scheduled for March 15, 2013.

CSLB filed an accusation to revoke the license on September 20, 2012, based on the Labor Code violations, and Mohammadi filed an appeal.

Update on Gary Dyrr dba Feather River Materials Inc.

Caltrans filed a complaint against Gary Dyrr, dba Feather River Materials Inc., after debaring the contractor for falsifying an engineer's stamp on aggregate testing. A criminal investigation was performed by the Office of the Inspector General and the Division of Investigation, and Dyrr would not speak to inspectors from either organization, but did provide a statement to CSLB's public works investigator, who was in communication with the other investigators and shared her findings. Dyrr was criminally convicted in Plumas County of impersonating and using the seal of a professional engineering on October 13, 2011.

In April 2012, CSLB filed an accusation to revoke Dyrr's license, which he appealed. However, in February 2013, Dyrr entered into a stipulated agreement with the assigned Deputy Attorney General, and his license will be revoked effective March 25, 2013.

Disclosure of Other Agencies' Findings on CSLB Website

CSLB will be disclosing other agencies' findings on license histories. For example, if Caltrans debars a contractor for failing to pay prevailing wages to employees, CSLB will provide a link on the license history that will redirect the viewer to the Caltrans' website that has the debarment information.

AGENDA ITEM E

Review and Discussion Regarding CSLB Complaint Prioritization





CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT PRIORITIZATION

With increasing demand and difficulty in staff retention in certain geographical areas, the Enforcement division is constantly reexamining its priorities to ensure that CSLB's mandate to protect consumers and Board objectives are being met. CSLB receives far more leads involving alleged unlicensed practice, expired licenses, classification issues, and other construction-related law violations than staff can respond to with available resources. At the October 24, 2012, Enforcement committee meeting staff was asked to provide a lead prioritization matrix in an effort to stabilize staff's workload.

Consumer Service Representatives (CSRs)

The Board objective is for CSRs to mediate and or refer the majority of complaints received within 60 days, with no cases exceeding 90 days. Therefore, the maximum working case load for CSRs has been established at 40 per CSR. CSLB has 30 CSRs, therefore, the two Intake and Mediation Centers have the capacity for 1200 open complaints. As of March 1st, 2013, the IMCs had a working case load of 1,197 complaints.

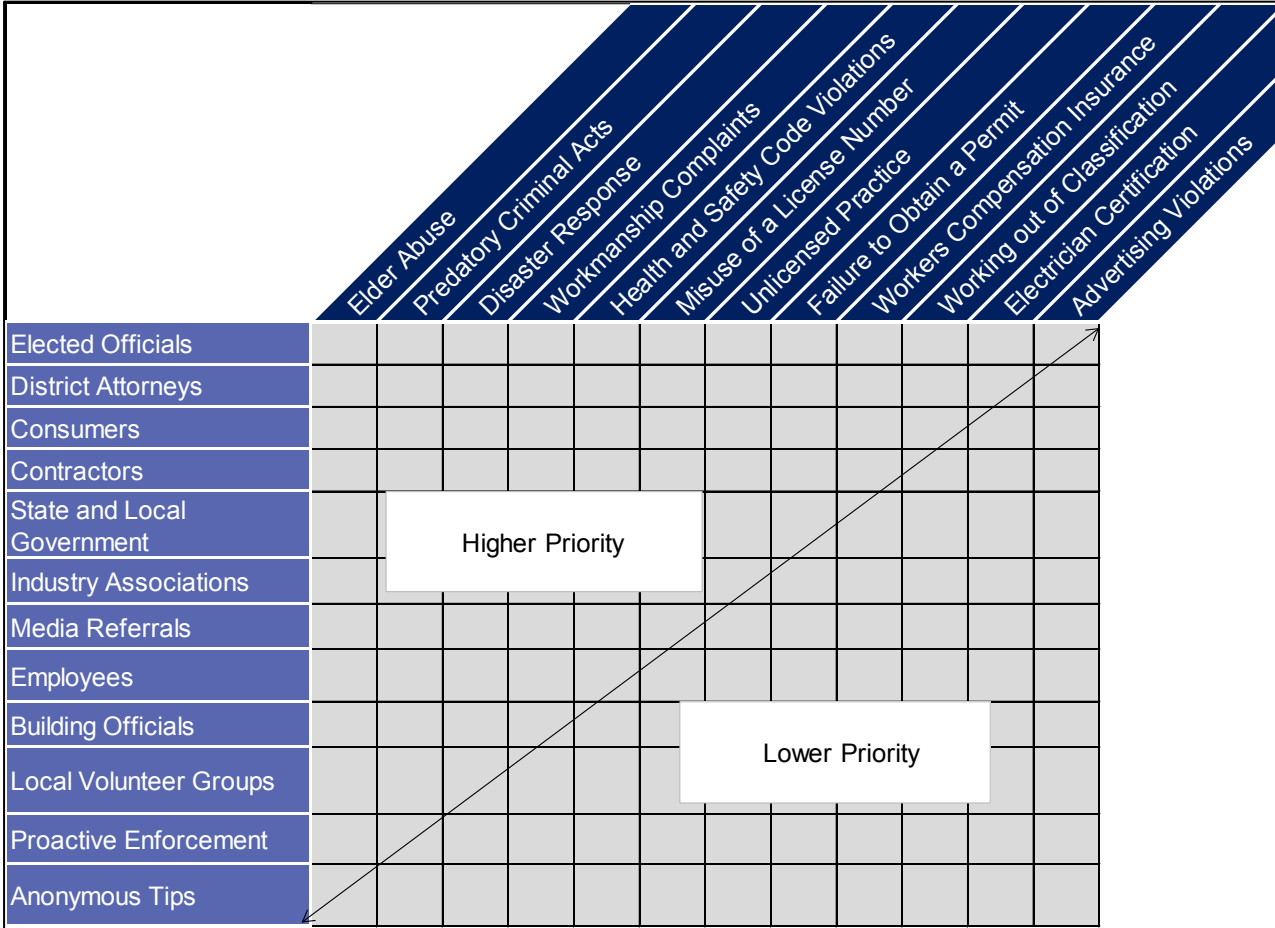
Enforcement Representatives (ERs)

The Board objective is for ERs assigned to the nine investigative centers (ICs) to investigate and appropriately disposition 9 complaints per month (ten per month when furloughs are eliminated). The maximum working case load for ERs has been established at 35 per ER. CSLB has 60 ERs, therefore, the nine ICs have the capacity for 2,100 open complaints. As of March 1st 2013, the ICs had a total of 2,043 complaints open and under investigation.

Total Consumer-Filed Complaint Handling Capacity

As of March 1, 2013, CSLB had 3,240 consumer-filed complaints open and under investigation, which is only slightly below the complaint-handling capacity of 3,300.

CSLB Enforcement Prioritization



AGENDA ITEM F

Review and Recommendation Regarding Electrician Certification Enforcement Strategies and Revision of the Industry Bulletin





CONTRACTORS STATE LICENSE BOARD

ELECTRICIAN CERTIFICATION ENFORCEMENT

Issue

Should the Contractors State License Board (CSLB) amend its enforcement policies and procedures regarding electrical certification?

Recommendation

CSLB should amend its bulletin(s) regarding enforcement of electrician certification but not amend any other enforcement policies or procedures regarding enforcement of electrician enforcement at this time.

Background

Existing law requires that anyone performing work as an electrician, under a C-10 licensed contractor, must be certified pursuant to certification standards established by the Division of Labor Standards Enforcement (DLSE). "Electrician" is defined as all persons who engage in the connection of electrical devices for electrical contractors licensed pursuant to Section 7058 of the Business and Profession Code, specifically, contractors classified as electrical contractors in the CSLB Rules and Regulations [Labor Code § 108 (c)].

Labor Code Section 108.2

Labor Code section 108.2 provides CSLB with the authority to discipline C-10 Electrical contractors for violating specified provisions under this section (see Attachment 1).

Labor Code (LC) section 108.2 has had the following legislative history:

1. Originally enacted as Labor Code Section 3099.2 (AB 1087, Calderon, Chapter 49, Statutes of 2002)
2. Amended in 2003 (AB 1719, Labor & Employment, Chapter 884, Statutes of 2003)
3. Amended in 2006 (AB 2907, De la Torre, Chapter 825, Statutes of 2006)
4. Amended in 2008 (AB 3048, Utilities & Commerce, Chapter 558, Statutes of 2008)
5. Amended in 2008 (SB 1362, Margett, Chapter 716, Statutes of 2008)
6. Amended in 2011 (SB 944, Business, Professions & Economic Development, Chapter 432, Statutes of 2011)
7. Amended in 2011 (AB 1346, Atkins, Chapter 693, Statutes of 2011)

Enforcement of Section 108.2 - Chronology

CSLB began enforcing LC § 108.2 in 2010, after it was given the authority to do so, by AB 3048 (Chapter 558, Statutes of 2008) and SB 1362 (Chapter 716, Statutes of 2008).

July 1, 2009 – Labor Code section 3099.2 provided jurisdiction to CSLB to discipline licensed C-10 Electrical contractors for violating Section 3099.2. A memorandum of



understanding (MOU) was signed by CSLB and the Department of Industrial Relations' Division of Apprenticeship Standards (DAS) to implement the law (see Attachment 2).

August 4, 2009 – A memo outlining procedures to handle electrician certification complaints was sent to all CSLB Enforcement Supervisors and Managers (see Attachment 3).

November 19, 2010 – CSLB issued an industry bulletin titled “CSLB Announces Zero-Tolerance for C-10 Requirement Violations” (see Attachment 4).

April 13, 2011 – CSLB issued a second industry bulletin titled “CSLB Zero Tolerance Policy in Effect for Non-Compliant Electricians” (see Attachment 5).

June 5, 2012 – CSLB adopted Proactive Priorities (see Attachment 6). In line with existing resources, the Board prioritized “proactive complaint investigations and approved process changes to manage workload.” Electrical certification is priority 7 out of 10, and the policy for staff was to “Only conduct a site visit to verify certification if CSLB is responding with partnering agencies and/or observes workers’ compensation insurance violations. Otherwise, work product from a labor compliance agency is required.”

July 11, 2012 – CSLB and the Division of Industrial Relations (DIR) updated its MOU regarding the process for referring cases to CSLB for violations of Labor Code section 108.2 (see Attachment 7).

Current Policies and Procedures

The executed MOU with DIR and current investigative procedures include:

1. CSLB verification of electrician certification compliance when investigating consumer complaints or when participating in sweeps with the Labor Enforcement Task Force (LETF).
2. Proactive lead response/enforcement of electrician certification requirements is performed by private investigators hired by Western Electrical Contractors Association (WECA) and labor compliance officers employed by the Northern California Electrical Construction Industry (NCECI) who represent the International Brotherhood of Electrical Workers (IBEW) and the National Electrical Contractors Association (NECA).
3. One CSLB enforcement representative (ER) dedicated to the review and confirmation of evidence, interview of respondents, writing of reports, and testifying in administrative hearings.

The aforementioned enforcement procedures have proven effective with more than 40 citations issued, three appealed, and only one not sustained by an administrative law judge.



Request from the International Brotherhood of Electrical Workers (IBEW) and the National Electrical Contractors Association (NECA)

On December 19, 2012, representatives from IBEW and NECA met with CSLB staff regarding their request for a new CSLB Industry Bulletin to C-10 contractors on electrician certification (see Attachment 8).

Highlights for the request include:

Alameda County Joint Apprenticeship & Training Comm.v. Roadway Elec. Works Inc., 186 Cal.App4th 185 (2010).

The Roadway Court examined the Electrician Certification Law and held that a prevailing wage determination for uncertified workers could not be applied to “construction or installation of electrical conduit that under law is to be done by certified electricians.” The Roadway Court explained that “the California Code of Regulations defines the subcategories of electricians that must be certified...” and states that a “General Electrician is one who performs work for a C-10 electrical contractor installing, constructing or maintaining any electrical system that is cover by the National Electrical Code. Moreover, the classifications of the CSLB describe a C-10 electrical contractor as one who places, installs erects or connects any electrical wires, fixtures, appliances, apparatuses, raceways, conduits, solar photovoltaic cells or any part thereof...”

Their request for a proposed bulletin reads in part:

“Therefore, in addition to updating the statutory citations in its Nov. 23, 2010 Bulletin, a new CSLB Bulletin should clarify that the following work performed by a C-10 contractor is presumptively electrical work for which certification is required:

Placing, installing, erecting, or connecting any electrical wires, fixtures, appliances, apparatus, raceways, conduits, solar photovoltaic cells or any part thereof. By contrast, as the Nov. 23, 2010 Bulletin stated, trenching concrete, framing, and similar work may be performed by noncertified workers.”

On January 8, 2013, staff met with representatives of the State Council of Laborers (Laborers) who were strongly opposed to the proposed language presented by IBEW and NECA. The Laborers argued that Roadway is not binding on CSLB’s enforcement of electrician certification requirements. Moreover, trenching, installation of conduit and other work not directly related to control of the wire has historically been performed by Laborers, and the majority of the aforementioned electrical support work is performed by non-certified workers.



Viability Options

As previously stated, CSLB has only one ER designated to investigate electrician certification complaints, and current staffing levels are not sufficient to handle any additional workloads. The existing policies and procedures seem to be working well and are consistent with the Board's consumer protection mandate and priorities. Staff has concluded that IBEW and NECA are correct that the industry bulletin is not currently correct and, as such, the bulletin should be rescinded or amended.

Option 1: Remove the industry bulletin from the CSLB website and replace it with information directing interested parties to DLSE to determine worker classification requirements. Require DLSE to review and certify that the evidence presented supports an administrative action. (This will lengthen the investigative process.)

Option 2: Replace the industry bulletin with a new industry bulletin as follows:

SACRAMENTO - The Contractors State License Board (CSLB) established a zero-tolerance enforcement policy in 2010 and now issues legal action against any C-10 Electrical contractor who willfully employs an uncertified electrician to perform work as an electrician. CSLB is legally required to open an investigation and initiate disciplinary action against the contractor (which may include license suspension or revocation) within 60 days of receipt of a referral or complaint from the Department of Industrial Relations' Division of Apprenticeship Standards (DAS).

Labor Code section 3099.2 stipulates that anyone who performs work as an electrician for C-10 Electrical contractors shall hold an electrical certification card issued by DAS; DAS is required by Labor Code section 3099.2 to report violations to CSLB.

Electricians are defined as those who engage in the connection of electrical devices for C-10 contractors. It is CSLB's position that electrical work must be performed by **either a state-licensed or a certified** electrician. An indentured apprentice or state-registered electrician trainee also may perform electrical work if supervised by a state-certified electrician.

For CSLB enforcement purposes, if an uncertified person is handling wire that is used or will be used in an electrical circuit, a disciplinary action may be pursued. For additional information regarding the payment of wage rates or work related to trenching, concrete, framing or other work that does not involve handling of wire in an electrical circuit, please visit the Department of Industrial Relations, Division of Labor Standards of Enforcement at: <http://www.dir.ca.gov/dlse/>.

**Reasons for Staff Recommendation for Approval of Option 2:**

Either option would correct the problem caused by the inaccuracy of the industry bulletin. Option 1 would be easiest for CSLB to implement and would eliminate the problems caused by the issues regarding CSLB's role in enforcing worker classification requirements as part of the electrical certification enforcement program. Option 1 would slow down enforcement of the law.

Option 2, memorializes what is actually working well for CSLB's enforcement program and directs questions about worker classifications to the agency charged with the responsibility – the Department of Industrial Relations, Division of Labor Standards. This will allow CSLB to continue enforcing the electrical certification law without adversely affecting CSLB's resources or consumer protection priorities.

Attachments:

1. Labor Code Section 108.2
2. MOU between CSLB and DIR/DAS, May 2009
3. Fogt memo to All Enforcement Supervisors and Managers
4. CSLB Industry Bulletin – CSLB Announces Zero-Tolerance for C-10 Requirement Violations, November 2010
5. CSLB Industry Bulletin – CSLB Zero Tolerance Policy in Effect for Non-Complaint Electricians, April 2011
6. CSLB Proactive Priorities. CSLB 2012-2013 Strategic Plan approved June 5, 2012
7. MOU between CSLB and DIR, July 2012
8. Overview: Need for New CSLB Bulletin to C-10 Contractors on Electrical Certification, December 2012

California Labor Code Section 108.2

[Legal Research Home](#) > [California Laws](#) > [Labor Code](#) > California Labor Code Section 108.2

108.2. (a) Persons who perform work as electricians shall become certified pursuant to Section 108. Uncertified persons shall not perform electrical work for which certification is required.

(b) (1) Certification is required only for those persons who perform work as electricians for contractors licensed as class C-10 electrical contractors under the Contractors' State License Board Rules and Regulations.

(2) Certification is not required for persons performing work for contractors licensed as class C-7 low voltage systems or class C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class C-45 license, including incidental and supplemental work as defined in Section 7059 of the Business and Professions Code, and regardless of whether the same contractor is also licensed as a class C-10 contractor.

(3) Certification is not required for work performed by a worker on a high-voltage electrical transmission or distribution system owned by a local publicly owned electric utility, as defined in Section 224.3 of the Public Utilities Code; an electrical corporation, as defined in Section 218 of the Public Utilities Code; a person, as defined in Section 205 of the Public Utilities Code; or a corporation, as defined in Section 204 of the Public Utilities Code; when the worker is employed by the utility or a licensed contractor principally engaged in installing or maintaining transmission or distribution systems.

(4) Individuals desiring to be certified shall submit an application for certification and examination that includes an employment history report from the Social Security Administration. The individual may redact his or her social security number from the employment history report before it is submitted.

(c) The division shall maintain separate certifications for general electrician, fire/life safety technician, residential electrician, voice data video technician, and nonresidential lighting technician.

(d) Notwithstanding subdivision (a), certification is not required for registered apprentices performing electrical work as part of an apprenticeship program approved under Chapter 4 of Division 3 (commencing with Section 3070), a federal Office of Apprenticeship program, or a state apprenticeship program authorized by the federal Office of Apprenticeship. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(e) Notwithstanding subdivision (a), certification is not required for any person employed pursuant to Section 108.4.

(f) Notwithstanding subdivision (a), certification is not required for a nonresidential lighting trainee (1) who is enrolled in an on-the-job instructional training program approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3090, and (2) who is under the onsite supervision of a nonresidential lighting technician certified pursuant to Section 108.

(g) Notwithstanding subdivision (a), the qualifying person for a class C-10 electrical contractor license issued by the Contractors' State License Board need not also be certified pursuant to Section 108 to perform electrical work for that licensed contractor or to supervise an uncertified person employed by that licensed contractor pursuant to Section 108.4.

(h) The following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license of a class C-10 electrical contractor pursuant to Article 7 (commencing with Section 7090) of Chapter 9 of Division 3 of the Business and Professions Code:

(1) The contractor willfully employs one or more uncertified persons to perform work as electricians in violation of this section.

(2) The contractor willfully fails to provide the adequate supervision of uncertified workers required by paragraph (3) of subdivision (a) of Section 108.4.

(3) The contractor willfully fails to provide adequate supervision of apprentices performing work pursuant to subdivision (d).

(i) The Labor Commissioner shall maintain a process for referring cases to the Contractors' State License Board when it has been determined that a violation of this section has likely occurred. The Labor Commissioner shall have a memorandum of understanding with the Registrar of Contractors in furtherance of this section.

(j) Upon receipt of a referral by the Labor Commissioner alleging a violation under this section, the Registrar of Contractors shall open an investigation. Any disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The Registrar of Contractors may initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from the Labor Commissioner alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or trainee status shall create a rebuttable presumption of violation of this provision.

(k) For the purposes of this section, "electricians" has the same meaning as the definition set forth in Section 108.

Final/1/10/09

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF CONSUMER AFFAIRS
CONTRACTORS' STATE LICENSE BOARD
AND
THE DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS

MAY 2009

PURPOSE: The Department of Consumer Affairs – Contractors' State License Board (CSLB) and the Department of Industrial Relations, Division of Apprenticeship Standards (DAS) enter into this Memorandum of Understanding (MOU) to implement the provisions of SB 1362 and AB 3048 effective January 1, 2009 mandating that DAS develop a process for referring cases to CSLB upon determining that a violation of electrician certification requirements under Labor Code section 3099.2 has likely occurred and that DAS and CSLB execute a Memorandum of Understanding no later than July 1, 2009 to identify an appropriate process for referring cases to CSLB.

LEGAL AUTHORITY: Labor Code section 3099.2 requires that DAS develop a process for referring cases to the CSLB when it has been determined that a violation of 3099.2 has likely occurred, and that DAS prepare and execute a memorandum of understanding with the Registrar of CSLB to fully implement the referral process. The statute also requires that the Registrar of CSLB upon receipt of a referral by DAS alleging a violation of Labor Code section 3099.2 shall open an investigation and that any disciplinary action against the licensee shall be initiated within sixty (60) days of receipt of the referral.

PRINCIPLES OF AGREEMENT:

I. DAS Referrals to CSLB

DAS agrees to refer complaints alleging a violation of Labor Code section 3099.2 to CSLB and will forward to CSLB any supporting documentation sent with the complaint and a declaration from the appropriate person at DAS certifying DAS records regarding the status of employees alleged to be uncertified electricians, apprentices, or electrician trainees. To implement the required referrals to CSLB, DAS will post the complaint referral form developed with and by CSLB on its website in electronic form, and direct complainants to lodge complaints directly onto that electronic form. Upon electronic transmission of the

form by a complainant to DAS, DAS will provide a declaration certifying DAS records regarding the status of employees alleged to be uncertified electricians, apprentices, or electrician trainees. A copy of the complaint referral form and a copy of a sample declaration is attached hereto.

II. CSLB Notification to DAS

Upon receipt of a complaint referred from DAS to CSLB, the Registrar of CSLB shall open an investigation and initiate any appropriate disciplinary action against the licensee within sixty (60) days of the receipt of the referral. The Registrar may also initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from DAS alleging a violation under Labor Code section 3099.2.

CSLB will notify DAS of any disciplinary action initiated by the Registrar within 10 days of serving the disciplinary action upon the C-10 contractor.

III. Contacts

The CSLB contact person is Amber Ostrander, SSA
Contractors' State License Board
9821 Business Park Drive
Sacramento, CA 95827
(916) 255-3981

The DAS contact person is Luisa Martinez, Electrician Certification Manager
Electrician Certification Unit
Division of Apprenticeship Standards
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142-0603
(415) 703-4919

IV. Periodic Review

CSLB and DAS may conduct meetings to determine whether this MOU is producing results consistent with its purpose. The participants may discuss, among other things, whether the scope of referrals is sufficiently broad to achieve the purpose of this MOU.

V. Payment Provisions

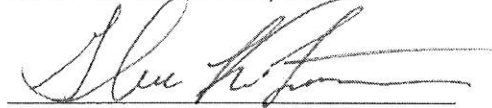
CSLB agrees not to charge DAS and DAS agrees not to charge CSLB for the sharing of information pursuant to this agreement.

VI. Confidentiality of Documents and Information

Only persons authorized by the respective agency heads shall be permitted to obtain the information. Any information obtained by either of the agencies shall only be used for purposes which are consistent with existing law.

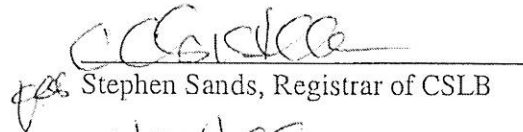
VII. Effective Date

The term of this MOU shall commence on the date of final signature and shall be automatically renewed thereafter on a year-to-year basis, unless any party gives notice of non-renewal at least thirty (30) days prior to an anniversary date. The effective date for this MOU will be June 30, 2009.



Glen Forman, Chief of DAS

6-29-09
Dated



Stephen Sands, Registrar of CSLB

6/24/09
Dated



MEMORANDUM

CONTRACTORS STATE LICENSE BOARD

STATE OF CALIFORNIA

Date: August 4, 2009

To: All Enforcement Supervisors and Managers
Contractors State License Board

From: David Fogt, Chief
Enforcement, Contractors State License Board

Subject: Non-Certified Electrician Investigations

This memo replaces the memo dated March 13, 2007 regarding the handling of Electrician Certification complaints.

Pursuant to Labor Code (LC) Section 3099.2, certification is required for all persons who perform work as electricians for contractors licensed as C-10 electrical contractors in the State of California. Certification standards are established by the Division of Apprenticeship Standards (DAS) within the Department of Industrial Relations. An Electrician Certification is not required for the following:

- Qualifying person for a CSLB C10 Electrical contractors license
- C7 Low Voltage and C45 Electrical Sign Contractor as long as the work performed is within the scope of the license (including supplemental/incidental)
- Registered apprentices performing work as part of an approved apprenticeship program
- Non-residential trainee who is enrolled in an approved on-the-job instructional training program
- Any person employed to acquire on-the-job experience for certification pursuant to LC Section 3099.4

Effective January 1, 2009, LC Section 3099.2 was amended as a result of Assembly Bill 3048 and Senate Bill 1362. The bills required the following:

1. DAS to develop a process for referring cases to the Contractors State License Board (CSLB) after determining that a violation of certification requirements has occurred
2. To execute a Memorandum of Understanding (MOU) with the Registrar of Contractors by July 1, 2009 to address the receipt, initiation, handling, and disposition of complaints of violations of electrician certification requirements.

All Enforcement Supervisors & Managers

August 4, 2009

Page 2

DAS and CSLB have entered into a MOU with an effective date of June 30, 2009. The MOU addresses the bill requirements regarding the DAS referrals to CSLB and CSLB's handling, investigation, and appropriate disposition of alleged violations of the electrician certification requirements. DAS has developed an Electrician Certification Complaint Referral form which can be found on their website. The website address is <http://www.dir.ca.gov/das.html>.

DAS will refer complaints and supporting documentation regarding non-certified employees as well as a Declaration of non-certified status to CSLB. The amendment to the LC requires that CSLB open an investigation and initiate any appropriate disciplinary action against the licensee within sixty (60) days of the receipt of the referral. Referrals received from DAS will be forwarded to Amber Ostrander, SSA for complaint initiation and will be assigned to Enforcement Representatives John Wong and Jimmie Mullen. The CSLB may also initiate disciplinary action against a licensee as a result of their own proactive or reactive complaint or investigation process if a violation of the electrician certification requirements is found.

A new "Special Projects Code (DAS) and Action Code (CDAS)" have been developed to track and monitor complaints involving electrician certification requirement violations. It is imperative that staff use these codes to assist Enforcement in capturing statistical information.

Please provide a copy of this memo to your staff and include it on your next staff meeting agenda. If you have any questions regarding this memorandum or the procedures for handling non-certified electrician complaints, please contact Amber Ostrander, at (916) 255-3981.

**David Fogt
Enforcement Chief**

CSLB Industry Bulletin - 11/19/2010

CSLB Announces Zero-Tolerance for C-10 Requirement Violations

Only Certified Electricians to Perform Work as Electricians

SACRAMENTO - Effective immediately, the Contractors State License Board (CSLB) establishes a zero-tolerance enforcement policy and will issue legal action against any C-10 Electrical contractor who willfully employs even one uncertified electrician to perform work as an electrician. CSLB is legally required to open an investigation and initiate disciplinary action against the contractor, which may include license suspension or revocation, within 60 days of receipt of a referral or complaint from the Division of Apprenticeship Standards (DAS).

Subsections within [Labor Code Section 3099](#) clearly state that certification by DAS is required for anyone who performs work as an electrician for C-10 Electrical contractors. DAS is required by Labor Code Section 3099.2 to report violations to CSLB.

Electricians are defined as all persons who engage in the connection of electrical devices for C-10 contractors. It is CSLB's position that electrical work must be performed by a certified electrician or an approved apprentice. Trenching, concrete, framing, and other work that does not involve connecting electrical devices may be performed by noncertified workers.

Learn more about electrician certification by visiting the [Division of Apprenticeship Standards website](#)

CSLB Industry Bulletin - 04/13/2011

CSLB Zero Tolerance Policy In Effect for Non-Compliant Electricians

SACRAMENTO - The Contractors State License Board (CSLB) established a zero-tolerance enforcement policy in 2010 and now issues legal action against any C-10 Electrical contractor who willfully employs an uncertified electrician to perform work as an electrician. CSLB is legally required to open an investigation and initiate disciplinary action against the contractor (which may include license suspension or revocation) within 60 days of receipt of a referral or complaint from the Department of Industrial Relations' Division of Apprenticeship Standards (DAS).

Labor Code Section 3099.2 stipulates that anyone who performs work as an electrician for C-10 Electrical contractors shall hold an electrical certification card issued by DAS; DAS is required by Labor Code Section 3099.2 to report violations to CSLB.

Electricians are defined as those who engage in the connection of electrical devices for C-10 contractors. It is CSLB's position that electrical work must be performed by **either a state-licensed or a certified** electrician. An indentured apprentice or state-registered electrician trainee may also perform electrical work if supervised by a state-certified electrician. Trenching, concrete, framing, and other work that does not involve connecting electrical devices may be performed by noncertified workers.

Learn more about electrician certification by visiting the [Division of Apprenticeship Standards website](#).



CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT PRIORITIZATION

The Board's consumer protection mandate is found in Business and Professions Code 7000.6 - Priority of board; Protection of the public, that reads as follows:

Protection of the public shall be the highest priority for the Contractors' State License Board in exercising its licensing, regulator, and disciplinary functions. Whenever the protection of the public is consistent with other interests sought to be promoted, the protection of the public shall be paramount

In furtherance of this mandate, the Board's Enforcement Division performs reactive investigation of consumer filed complaints and proactive investigation of industry filed complaints.

Consumer Complaints

The approximate 17,000 reactive consumer complaints (Consumer Complaints) filed annually are worked by approximately 30 Consumer Services Representatives (CSR) and 70 Enforcement Representatives (ER). In 2006, the Board established process changes and performance goals that have enabled staff to effectively manage reactive complaint workload and provide a high level of consumer protection and service. Consequently, staff is now requesting prioritization of reactive complaints at this time.

Industry Complaints

The Board has 30 allocated ER positions for reactive investigation of industry complaints. Demands for CSLB resources to combat the underground economy and level the playing field for law-abiding contractors continues to increase. Consequently, Board assistance is needed in prioritizing proactive complaint investigation and approving process changes to manage workload.

Prioritization List

The following is the top "10" list of proactive enforcement activity by "type" for Board Member consideration:

1. Unlicensed Practice
2. Workers' Compensation Violations
3. Labor/Health and Safety Code (Division of Occupational Safety & Health (DOSH) and Division of Labor Standards Enforcement (DLSE) Memorandums of Understanding (MOUs)
4. Licensees Working Out-of-Classification
5. Building Permit Enforcement
6. Public Works Investigations
7. Electrician Certification
8. Illegal Print Advertisements
9. Referral Fees /Kickbacks
10. Outreach



Questions for Board Members’ Consideration:

- Is the list comprehensive and in the proper prioritization?
- Are the proposed controls on the attached matrix appropriate in order to manage workload?

Below is a list of the “Top Ten” proactive enforcement activity by type for board member consideration:

Priority	Controls to Manage Workload
1. Unlicensed Practice at Active Jobsites	Respond to leads with a CSLB Enforcement Representative conducting a site visit.
2. Workers’ Compensation Violations at Active Jobsites	Respond to leads with a CSLB Enforcement Representative conducting a site visit.
3. Labor/Health and Safety Code (DOSH/DSLE MOUs)	CSLB Enforcement Representative and partnering agency investigator conduct a site visit.
4. Out-of-Classification (Licensees)	If there is a health and safety issue or we are unsure if the contractor is licensed, a site visit may be warranted. Otherwise this will be addressed by IMC or IC staff.
5. Building Permit Enforcement	Investigate only when jurisdiction is cooperative. <ul style="list-style-type: none"> • Building Department must be willing to waive fees associated with conducting the investigation. • Jurisdiction must provide CSLB with their work product. Evidence of no permit must be attained. If work is in progress possibly conduct a site visit.
6. Public Works Investigations	SWIFT will respond to leads and perform sweeps with other state agencies as applicable. Otherwise, leads will be referred to the CSLB Public Works Unit.
7. Electrician Certification	Only conduct a site visit to verify certification if we are responding with partnering agencies and/or observe workers’ compensation violations. Otherwise, work product from a labor compliance agency is required.
8. Illegal Print Advertisements	Process through the IMC where a Warning Letter, Stop Order or Telephone Disconnect can be issued. The action taken is then referred to SWIFT for use in future Stings.



Priority	Controls to Manage Workload
9. Referral Fees/Kickbacks	<p>Referral Fee enforcement will be primarily handled by IMC. Contractors will be contacted and educated on B&P §7157 – Referral Fee Restrictions. Warning letters will then be issued and used for more stringent action.</p> <p>IC staff will conduct 2 stings per calendar year to target egregious offenders.</p>
10. Outreach	<p>Public Affairs Office to take the lead. The Enforcement Division will develop a list of Enforcement Representatives available to assist PAO when necessary. To minimize impact on enforcement work load, staff will work with EDD to develop an outreach packet to educate Legislators, contractors and consumers on the dangers of the underground economy.</p>

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF CONSUMER AFFAIRS
CONTRACTORS' STATE LICENSE BOARD
AND
THE DEPARTMENT OF INDUSTRIAL RELATIONS

Revised
July 2012

PURPOSE: The Department of Consumer Affairs – Contractors' State License Board (CSLB) and the Department of Industrial Relations (DIR), entered into this Memorandum of Understanding (MOU) to implement the provisions of SB 1362 and AB3048 effective January 1, 2009 mandating that DIR develop a process for referring cases to CSLB upon determining that a violation of electrician certification requirements under Labor Code section 3099.2 has likely occurred and that DIR and CSLB executed a Memorandum of Understanding before July 1, 2009 to identify an appropriate process for referring cases to CSLB.

On July 1, 2012, SB 1038 went into effect changing the organization structure of the Electrician Certification Unit (ECU). ECU is now under the authority of the Division of Labor Standards Enforcement. The ECU statutes found within Labor Code sections 3099 through 3099.5 have been renumbered in the Labor Code to sections 108 through 108.5 and the section 3099 series has been deleted.

LEGAL AUTHORITY: Labor Code section 108.2 requires that DAS develop a process for referring cases to the CSLB when it has been determined that a violation of 108.2 has likely occurred, and that DIR prepare and execute a memorandum of understanding with the Registrar of CSLB to fully implement the referral process. The statute also requires that the Registrar of CSLB upon receipt of a referral by DIR alleging a violation of Labor Code section 108.2 shall open an investigation and that any disciplinary action against the licensee shall be initiated within sixty (60) days of receipt of the referral.

PRINCIPLES OF AGREEMENT:

I. DIR Referrals to CSLB

DIR agrees to refer complaints alleging a violation of Labor Code section 108.2 to CSLB and will forward to CSLB any supporting documentation sent with the complaint and a declaration from the appropriate person at DIR certifying DIR records regarding the status of

employees alleged to be uncertified electricians, apprentices, or electrician trainees. To implement the required referrals to CSLB, DIR will post the complaint referral form developed with and by CSLB on its website in electronic form, and direct complainants to lodge complaints directly onto that electronic form. Upon electronic transmission of the form by a complainant to DIR, DIR will provide a declaration certifying DIR records regarding the status of employees alleged to be uncertified electricians, apprentices, or electrician trainees. A copy of the complaint referral form and a copy of a sample declaration is attached hereto.

II. CSLB Notification to DIR

Upon receipt of a complaint referred from DIR to CSLB, the Registrar of CSLB shall open an investigation and initiate any appropriate disciplinary action against the licensee within sixty (60) days of the receipt of the referral. The Registrar may also initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from DIR alleging a violation under Labor Code section 108.2.

CSLB will notify DIR of any disciplinary action initiated by the Registrar within 10 days of serving the disciplinary action upon the C-10 contractor.

III. Contacts

The CSLB contact person is Tammy Borgman, Investigator
Contractors' State License Board
9821 Business Park Dr.
Sacramento, CA 95827
(916) 255-4403

The DAS contact person is Luisa Martinez, Electrician Certification Manager
Electrician Certification Unit
Department of Industrial Relations
P O Box 420603
San Francisco, CA 94142-0603
(415) 355-5471

IV. Periodic Review

CSLB and DIR may conduct meetings to determine whether this MOU is producing results consistent with its purpose. The participants may discuss, among other things, whether the scope of referral is sufficiently broad to achieve the purpose of this MOU.

V. Payment Provisions

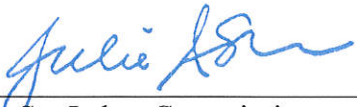
CSLB agrees not to charge DIR and DIR agrees not to charge CSLB for the sharing of information pursuant to this agreement.

VI. Confidentiality of Documents and Information


Only persons authorized by the respective agency heads shall be permitted to obtain the information. Any information obtained by either of the agencies shall only be used for purposes which are consistent with existing law.

VII. Effective Date

The term of this MOU shall commence on the date of final signature and shall be automatically renewed thereafter on a year-to-year basis, unless any party gives notice of non-renewal at least thirty (30) days prior to an anniversary date. The effective date for this MOU will be July 31, 2012



Julie Su, Labor Commissioner - DLSE



Stephen Sands, Registrar of CSLB

Date

10-11-12

Date

OVERVIEW: NEED FOR NEW CSLB BULLETIN TO C-10 CONTRACTORS ON ELECTRICIAN CERTIFICATION

1. CSLB is now responsible for disciplining C-10 Electrical contractors that willfully employ uncertified workers to perform electrical work. See Labor Code §108.2(h) (“The following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license of a class C-10 electrical contractor pursuant to Article 7 (commencing with Section 7090) of Chapter 9 of Division 3 of the Business and Professions Code: (1) The contractor willfully employs one or more uncertified persons to perform work as electricians in violation of this section.”).
2. On Nov. 23, 2010, CSLB issued a Bulletin to C-10 Electrical contractors about its enforcement policy, but the statutory sections cited in the Bulletin were recently moved, so the citations in the Nov. 23, 2010 Bulletin are no longer accurate. The Nov. 23, 2010 Bulletin also is not sufficiently specific about the work that must be performed by certified electricians. CSLB should issue a new bulletin.
3. Under the Labor Code, certification is required for “persons who perform work as electricians for contractors licensed as class C-10 electrical contractors under the Contractors' State License Board Rules and Regulations.” Labor Code §108.2(b).
4. The term “‘electricians’ includes all persons who engage in the connection of electrical devices for electrical contractors licensed pursuant to Section 7058 of the Business and Professions Code, specifically, contractors classified as electrical contractors in the Contractors' State License Board Rules and Regulations.” Labor Code §108(c) (emphasis supplied).
5. The National Electrical Code defines an electrical “device” to include any “unit of an electrical system that is intended to carry but not utilize electrical energy.” NEC, Article 100 (Definitions). This is consistent with the definition used by the California Legislature in the Business and Professions Code. See Bus. & Prof. Code §9855(c)(3)(B) (“electrical devices . . . include any unit of an electrical system intended to carry electrical energy as part of a building's electrical system, including raceways, conductors, invertors, conduit, wires, switches, or other similar devices.”).
6. This definition of the work performed by an “electrician” is also consistent with the CLSB’s own description of the work covered by the C-10 Electrical contractor specialty license: “An electrical contractor places, installs, erects or connects any electrical wires, fixtures, appliances, apparatus, raceways, conduits, solar photovoltaic cells or any part thereof, which generate, transmit, transform or utilize electrical energy in any form or for any purpose.” Cal. Code Regs., tit. 16, § 832.10.
7. This definition of the work performed by an electrician is also required by the Court of Appeal’s published decision in *Alameda County Joint Apprenticeship & Training Comm. v. Roadway Elec. Works Inc.*, 186 Cal.App.4th 185 (2010). The *Roadway* Court examined the Electrician Certification Law and held that a prevailing wage determination for uncertified workers could not be applied to “construction or installation of electrical conduit that under law is to be done by certified electricians.” *Id.* at 195.

The *Roadway* Court explained that “[t]he California Code of Regulations defines the subcategories of electricians who must be certified . . . and states that a ‘General Electrician is one who performs work for a C–10 electrical contractor installing, constructing or maintaining any electrical system that is covered by the National Electrical Code.’ (Cal.Code Regs., tit. 8, § 290.1; see also Cal.Code Regs., tit 8, § 291.0 [listing certification categories].)” *Roadway*, 186 Cal.App.4th at 192 n.9. The *Roadway* Court also looked to the CSLB’s description of the work covered by the C-10 Electrical contractor specialty license as showing the work that must be performed by a certified electrician: “Moreover, the classifications of the California Contractors State License Board describe a C–10 electrical contractor as one who ‘places, installs, erects or connects any electrical wires, fixtures, appliances, apparatus, raceways conduits, solar photovoltaic cells or any part thereof, which generate, transmit, transform or utilize electrical energy in any form or for any purpose.’” *Roadway*, 186 Cal.App.4th at 192 n.9.

8. Therefore, in addition to updating the statutory citations in its Nov. 23, 2010 Bulletin, a new CLSB Bulletin should clarify that that the following work performed by a C-10 Contractor is presumptively electrical work for which certification is required: placing, installing, erecting, or connecting any electrical wires, fixtures, appliances, apparatus, raceways, conduits, solar photovoltaic cells or any part thereof. By contrast, as the Nov. 23, 2010 Bulletin stated, trenching, concrete, framing, and similar work may be performed by noncertified workers.

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AGENDA ITEM G

Update on the Qualifier Task Force





QUALIFIER TASK FORCE

During the September 11, 2012, meeting, CSLB Board Members established a Qualifier Task Force (QTF) to determine if current licensing and enforcement practices, as they relate to qualifying individuals on licenses, are sufficient for consumer protection. It is unclear if licensees and the general public understand the role and responsibilities of a license's qualifying individual(s), specifically, Responsible Managing Officers (RMOs) and Qualifying Partners.

To date, CSLB has determined that many "retired" licensees are serving as an RMO on one or more corporate licenses for a monthly fee but do not have any direct involvement in the construction and/or business activities. Often, qualifying individuals are unaware that, pursuant to Business and Professions (B&P) Code section 7122.5, they are administratively held responsible for any act or omission that constitutes a cause for disciplinary action, regardless of their knowledge or participation in the prohibited act or omission.

The lack of understanding associated with this law compromises consumer protection as well as a licensee's ability to pursue a civil action. If a consumer successfully argues that the licensee is not in substantial compliance with the law, the licensee may be barred from pursuing compensation pursuant to B&P Code section 7031, "...Recovery of compensation paid to unlicensed contractor; Substantial compliance..."

Specific QTF objectives include:

- A. Identifying the scope of the problem
- B. Investigating suspect individuals who attempt to qualify multiple licenses to ensure compliance with qualifier duties and responsibilities
- C. Exploring legislative and/or administrative remedies

QTF participants include:

- David Fogt, Chief of Enforcement
- David Kalb, Capitol Services
- Lisa Miller-Strunk, Association of General Engineering Contractors
- Rick Pires, Basic Crafts
- Karen Robinson, CSLB Chief of Licensing
- Phil Vermeulen, Contractor Association Lobbyist



Senator Bill Monning

Fact Sheet: SB 262

LICENSE QUALIFIERS - VIOLATIONS OF THE LICENSE LAW

SUMMARY

Under the laws and regulations administered by the Contractors State License Board (CSLB), all contractors must have a person who acts as the qualifier for licensure. The qualifier is the person who furnishes the knowledge and experience that is required for licensure and is responsible for assuring that construction work performed by the licensee complies with all relevant laws and building codes. However, CSLB has determined that a number of qualifiers do not perform direct supervision and control duties as required by law. Some qualifiers are, in fact, retired licensees who have “rented” their qualifications for licensure. This has resulted in a number of cases where construction work has not been completed properly, causing considerable consumer harm.

BACKGROUND

The qualifier for a license can be one of the following:

- (1) The Sole Owner, himself/herself
- (2) An officer named on a corporate license (Responsible Managing Officer or RMO)
- (3) A Responsible Managing Employee (RME)
- (4) One of the Partners on a Partnership license (Qualifying Partner or QP)
- (5) Responsible Managing Manager, or a Responsible Managing Member

Under the California Contractors’ License Law (CLL) the qualifier for the license is “...responsible for exercising that direct supervision and control of his or her employer's or principal's construction operations as is necessary to secure full compliance with [the CLL] and the rules and regulations of the board relating to the construction operations.”

Existing law requires CSLB to prove that a qualifier did not provide sufficient supervision and control and that a violation of CLL occurred. During the past two years, CSLB has become aware of a substantial increase of qualifiers who are not actively involved in the corporate license activities. Examples include the following:

1. Match-making businesses that obtain CSLB lists of licenses that recently have been placed on “inactivated status.” They solicit qualifying persons to qualify corporate licenses for a monthly fee. CSLB’s investigation of these entities has determined that at least 30 percent of the qualifiers receive a monthly fee but have NO involvement in the construction activities. Under existing law, CSLB cannot take an action against the qualifier/license unless a violation of CLL can be proven.
2. Individuals engaged in criminal activities will solicit for qualifiers on craigslist.org and other sources to find qualifiers, many of whom are retired, to qualify licenses for criminal enterprises. While the persons directly involved in the criminal enterprise are prosecuted, the qualifier on the license avoids criminal prosecution by claiming no knowledge (existing law provides for administrative discipline because of the consumer



harm). The following press release issued by the Ventura County DA on October 19, 2012, supports the need for this bill:

VENTURA, California- District Attorney Gregory D. Totten announced today the completion of an 18-month investigation and filing of a felony complaint against Los Angeles residents Avi Hviv Gozlan (DOB 10/3/64), Ely Kavon (DOB 8/1/82) and Debra Lyn Mabrie (DOB 3/22/57). All three individuals are charged with 22 felonies, including grand theft, money laundering, elder abuse, conspiracy to contract without a license, and the aggravated white collar crime enhancement.

The charges arise out of a fraudulent remodeling and home improvement scheme operating across Southern California under the names Amco, Inc., Liberty Construction, Universal Remodeling, VIP Home Design, Inc. and Vista Home Improvement, Inc. The defendants misled consumers into believing these companies were properly licensed with the Contractors State License Board by renting legitimate licenses from other contractors for a monthly fee. Gozlan's prior contractor's license was revoked by the Contractors State License Board in 2000. In reality, licensed contractors were not overseeing or participating in these contracting businesses.

Through VIP Home Design, Inc. and the other companies identified above, Gozlan, Kavon and Mabrie are accused of selling home improvement services to consumers. They utilized a sophisticated network of telemarketers who were each required to make hundreds of telephone calls each day seeking out customers. Investigators have interviewed five victims to date who reside in Ventura County, three of whom are elders. Their losses exceed \$145,000.

Salespeople and telemarketers from these businesses proposed home improvement work that they never intended to complete, or offered services they ultimately failed to provide. Much of the work performed was substandard or resulted in overbilling for tasks that were never done.

On October 18, 2012, Gozlan and Mabrie were arrested in Los Angeles County during an operation conducted by the Ventura County District Attorney's Bureau of Investigation and the Contractors State License Board. They are currently being held in Los Angeles County jail pending transfer to Ventura County. On October 19, 2012, Kavon was arrested in Ventura County and booked into the Ventura County jail. If convicted of all charges, each defendant faces a maximum sentence of 18 years in state prison.

Ventura County residents who believe they may have been victimized by VIP Home Design, Inc., Amco, Inc., Liberty Construction, Universal Remodeling, or Vista Home Improvement, Inc. are encouraged to contact the Ventura County District Attorney's Consumer and Environmental Protection Unit at (805) 662-1750.

3. CSLB has identified numerous other licenses with absent qualifiers that perpetrated significant harm upon the public, often targeting the elderly. Many of the fraudulent

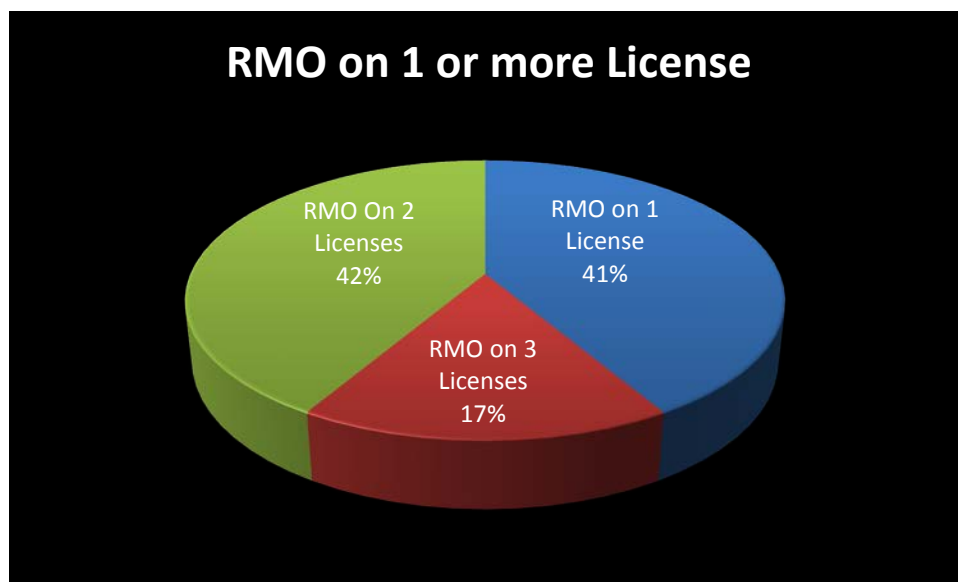


licenses advertised for service and repair with numerous complaints being filed soon after issuance of the license. Following are some of the licenses that have been revoked or have pending cases to revoke, and their qualifiers were likely solicited from lists obtained from CSLB:

- American Air Care Inc., License #889167, license revoked on June 28, 2010
- A & E Electric Inc., License #910875, license revoked on March 18, 2010
- USA Air Care Inc., License #924016, license revoked on August 25, 2011
- United Aircare Inc., license #908382, license revoked on September 24, 2012
- Solar Wise Inc., License #908897, license was canceled by request and is pending an accusation to revoke, case #N2010-194.
- Ocean Air Care, Inc., License #909100, license is suspended and pending an accusation to revoke, case #N2010-194.
- Z Ducts Inc., License #942737, license is pending an accusation to revoke, case #N2012-128.

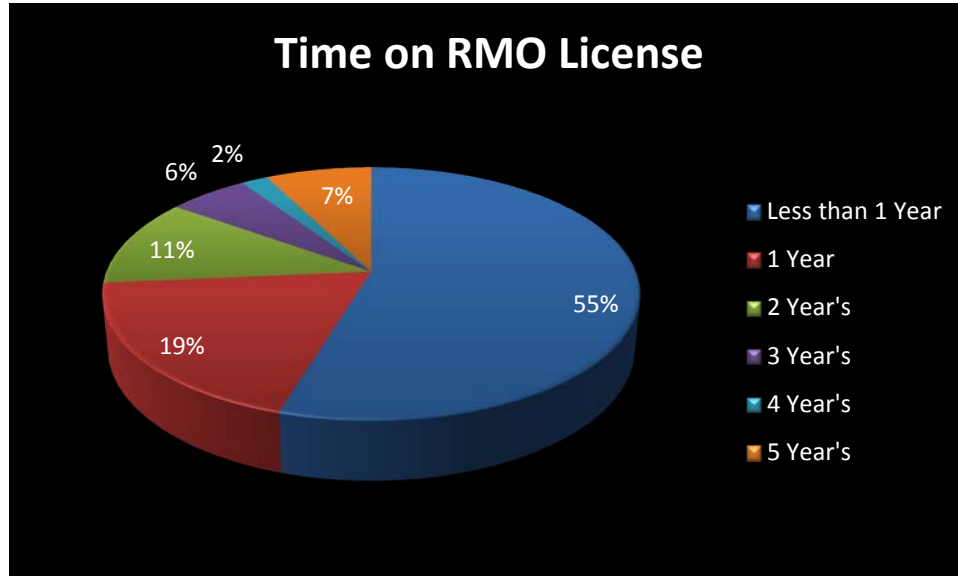
4. The following charts are based on a review of 92 suspected professional qualifiers that CSLB has identified. Initial findings indicate that many of these absent qualifiers are qualifying two or more corporate license, have been on current corporations for less than a year, and the majority are at or past retirement age, as follows:

- Approximately 59 % of the suspected absent qualifiers are listed as an RMO on 2 or more licenses.

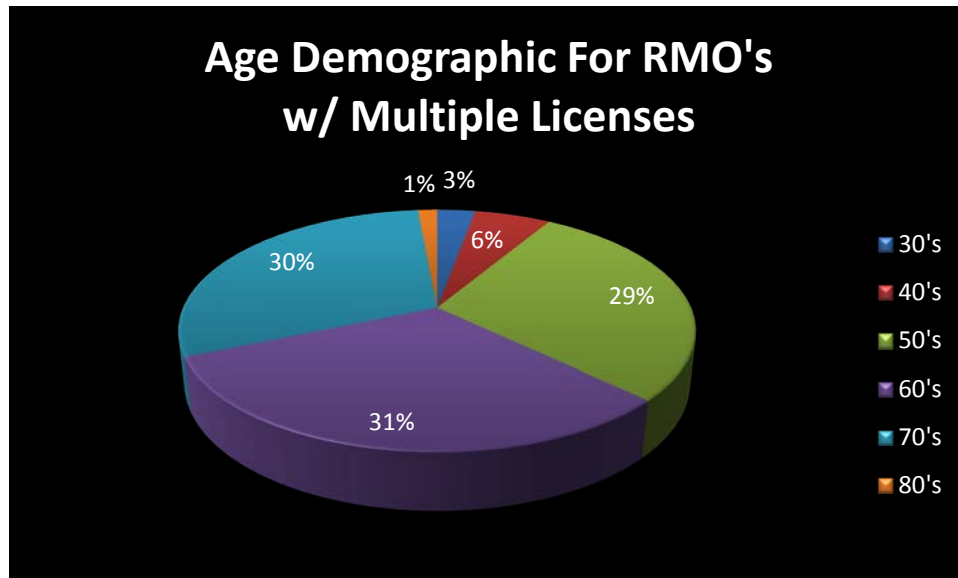




- More than half of the suspect qualifiers have been RMOs on existing licenses for less than a year.



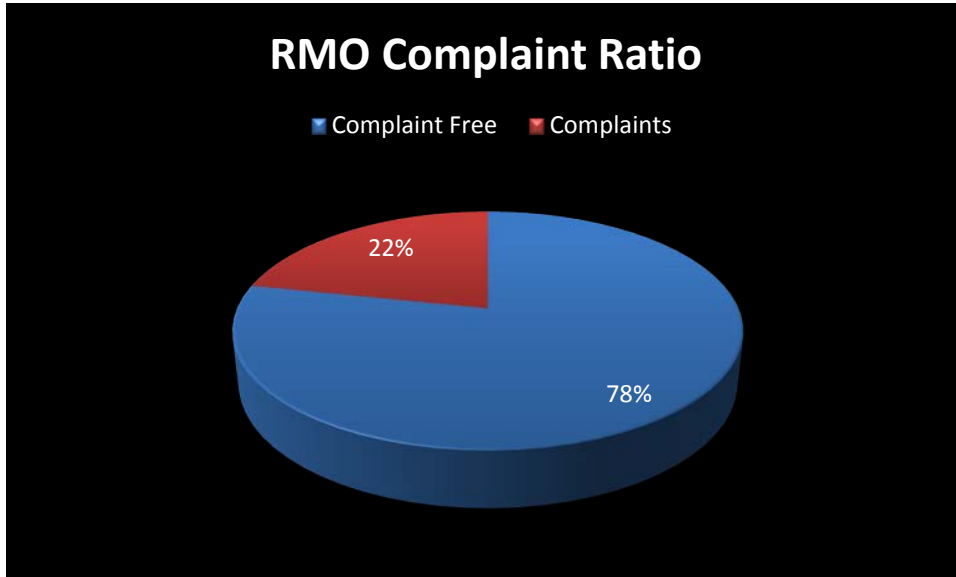
- Approximately 62% of the suspect qualifiers are 60 years of age or older.



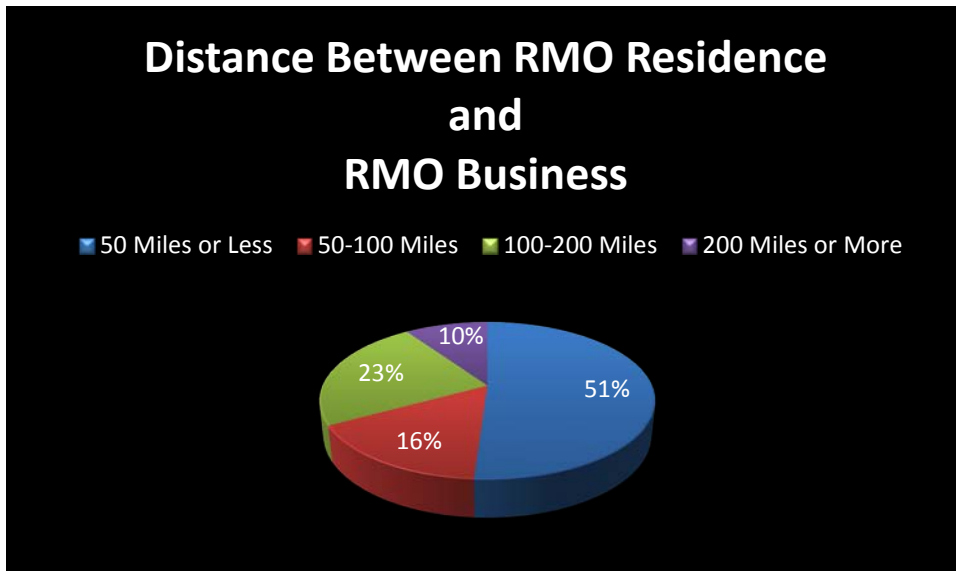
5. An unusually high number of licenses qualified by the suspect qualifiers are receiving consumer complaints. Historically, approximately 3 percent of licensed contractors (approximately 14,000) receive a complaint in any given year. However, CSLB records indicate that 22 percent of the suspect professional qualifiers are on



licenses, receiving complaints. This is a significant concern to Enforcement because 1) consumer protection is compromised and 2) based on this model, if 22 percent of licensees received complaints, the number of licensee complaints would increase to 60,000, and CSLB lacks the resources to investigate the increased workload.



- 6. Another red flag is that nearly half of the suspect qualifiers reside more than 50 miles from the businesses that they qualify, and approximately 33 percent of the suspect qualifiers reside 100 or miles away from the businesses.





Solution:

SB 262 would amend B&P Code section 7068.1 to authorize administrative discipline of a qualifier (directly), who fails to comply with the specified supervision and control requirements as well as misdemeanor prosecution for failing to exercise the duties of the qualifier should other individuals on the license be subject to criminal prosecution for acts or omissions. This provision would, in a very direct fashion, increase the qualifier's burden for compliance with acceptable building practices and, more importantly, act as a deterrent to those who would violate the law relative to their duties as a qualifier.

Proposed language:

7068.1. The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision and control, as defined by the California Code of Regulations (CCR), Title 16, Article 2, Section 823, of his or her employer's or principal's construction operations to secure full compliance with this chapter and the rules and regulations of the board. Violation of this section shall constitute a cause for disciplinary action.

This person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

(a) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.

(b) The additional firm is a subsidiary of or a joint venture with the first. "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm.

(c) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section 7068, the majority of the partners, officers, or managers are the same.

(d) Notwithstanding subdivisions (a), (b), and (c), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.

"Firm," as used in this section, means a partnership, a limited partnership, a corporation, a limited liability company, or any other combination or organization described in Section 7068.

"Person," as used in this section, is limited to natural persons, notwithstanding the definition of "person" in Section 7025.

The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations.

(e) A qualifying individual who fails to comply with CCR, Title 16, Article 2, Section 823, is subject to a misdemeanor when other individuals on the license are charged with crimes substantially related to the qualifications, functions, and duties of a contractor.



Possible Industry Concerns

Industry will need to be assured that this proposal does not change existing qualifier responsibilities under existing law:

- The qualifier for the license is “...responsible for exercising the direct supervision and control of his or her employer’s or principle’s construction operations as is necessary to secure full compliance with the Contractors’ License Law (CLL) and the rules and regulations of the board relating to the construction operations.”

Pursuant to CCR Title 16, Article 2, Section 823, the following prerequisites must be addressed on the license application by the qualifying individual for a license:

- The Registrar of Contractors has determined that direct supervision and control includes any one or a combination of the following activities: supervising construction, managing construction activities by making technical and administrative decisions, checking jobs for proper workmanship, or direct supervision on construction sites.

In conclusion, if small or large construction companies (engaged in building multiple large-scale projects at once) have a business plan that complies with the aforementioned existing requirements, they will continue to be in compliance when this bill is enacted.

AGENDA ITEM H

Adjournment

