

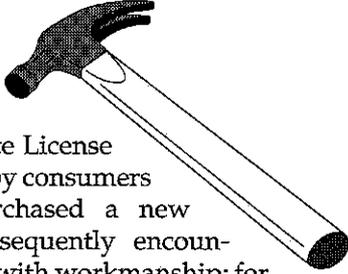
California Licensed Contractor

DAVID R. PHILLIPS, Registrar

Winter 1988

GEORGE DEUKMEJIAN, Governor

Contractors Liable for Workmanship



Many of the complaints received by the Contractors State License Board are filed by consumers who have purchased a new home and subsequently encountered problems with workmanship; for example, a leaking roof, leaking windows, or plumbing problems. In the past, if the complainant purchased the home from a licensed contractor, the Board investigated the complaint and attempted to resolve the problems. If the contractor failed to settle the dispute, the Board would file a disciplinary action against the license.

The section of law usually applicable in this kind of complaint is Business and Professions Code Section 7109. This section states that a departure from accepted trade standards for good and workmanlike construction or from plans and specifications without the consent of the owner is a cause for disciplinary action.

In 1987, in what has become known as "the Linda Jones case," an appellate court ruled that 7109 could not be alleged if the contractor was the owner of the property at the time the departure from plans or specs occurred. This same ruling also found that a construction contract was necessary between the homeowner and the contractor in order to allege violation of Section 7113 (failure to complete a project for a stated price). This published ruling forced the Board to close a number of complaints. The board sought legislative relief in the 1988 legislative session. The result is AB 4005 (Bradley), which was chaptered as urgency legislation and became effective September 30, 1988. The new Section 7109 now reads:

"(a) A willful departure in any material respect from accepted trade standards for good and workmanlike construction constitutes a cause for disciplinary action, unless the departure was in accordance with plans and specifications prepared by or under the direct supervision of an architect.

Workmanship continued on page 3

Legislative Summary, 1987-88 Session

by Shelby Cecchetti

Legislative measures affecting the Contractors State License Board that were signed by the Governor and chaptered into law include:

AB2938 (Quackenbush). Home solicitation contracts: contractors. Provides that the term "home solicitation contract" does not apply to contracts for repair services with a licensed contractor if the price is less than \$100 and the negotiation was initiated by the prospective buyer. Governor signed 09/21/88, Chapter 1104.

AB2999 (Speier). Asbestos: contractors. Requires any contractor who desires certification by the CSLB to engage in asbestos-related work to first be registered with the Division of Occupational Safety and Health. Prohibits advertising for asbestos removal unless CSLB-certified. Violation is subject to a citation. Conviction of a first offense is an infraction punishable by a fine of \$1,000 to \$3,000 and possible suspension or revocation of any contractor's license. Conviction of a subsequent offense is a misdemeanor requiring suspension or revocation of contractor's license and a fine of not less than \$3,000 or more than \$5,000, or imprisonment in the county jail for not more than one year, or both fine and imprisonment. Would require CSLB to establish an information program, including

a brochure, for individuals concerned about contracting for the removal or encapsulation (containment) of asbestos-containing materials in a building. This law becomes operational on July 1, 1989. Governor signed 09/20/88, Chapter 1003.

AB4310 (Eastin). Contractors. Requires a plastic pocket card to be issued, at no cost, to a contractor upon licensure and would require the surrender of the card under specified circumstances.

This bill also creates a pilot project to provide direct access by local building department officials to contractor license verification systems in not less than six cities and counties, or other entities that agree to participate. Would require CSLB to report to the Legislature on or before March 31, 1991 on the pilot project. Governor signed 09/28/88, Chapter 1495.

SB 354 (Craven). Interior Designers: CSLB. Appropriates \$25,000 from the Contractors License Fund to CSLB to study and report to the Legislature and the Governor by 2/15/89 on the desirability of licensing interior designers. Governor signed 08/28/88, Chapter 699.

Legislative Summary, continued on page 5

Staff Presentations at Irvine Board Meeting

Registrar, Dave Phillips (second from right) introduced CSLB staff (from left) Darlene Rivera, Consumer Service Representative in the Van Nuys District Office, and Dan Hitt and Ray Hendrickson, Senior Deputy Investigators in the Southern Regional Office (Norwalk). Each of the CSLB staff presented a case handled in preceding months that demonstrated for Board Members how investigations are completed and referred for discipline or closed.

CSLB Chairman, Stephen H. Lazarian, Jr. said he hopes to include similar staff presentations about Board practices and functions on the agendas of future Board Meetings. ■



California Licensed Contractor

Official Publication of the
Contractors State License Board

Winter 1988

STATE OF CALIFORNIA
GEORGE DEUKMEJIAN
Governor

MICHAEL A. KELLEY
Director, Department of Consumer Affairs

DAVID R. PHILLIPS
Registrar of Contractors

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Contractors State License Board**

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Joseph Valverde, Vice-Chairperson	A-Contractor
Jack Fenton	Public Member
James L. Frayne	Public Member
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Enforcement Committee
Jean Westgard, Chairperson
Legislative Committee
Marla Marshall, Chairperson
Licensing Committee
John Moore, Chairperson
Public Information Committee
John Lazzara, Chairperson
Strategic Planning Committee
Stephen H. Lazarian, Jr., Chairperson

Steve Kolb, Editor

Letters to the editor, articles, information of interest to contractors and suggestions for future articles are welcome. Deadlines for submittal are January 1, March 1, June 1, and September 1. Inclusion of submitted material in the CLC is at the discretion of the editor and dependent on time and space considerations.

Headquarters of the CSLB is located at:

3132 Bradshaw Road
P.O. Box 26000
Sacramento, California 95826

**DISCIPLINARY ACTION
July 1988 to September 1988**

Note: Disciplinary actions do not include licenses suspended for failure to maintain required bonds. The following explanation may be helpful to identify causes of disciplinary action indicated by sections referenced in the table of Disciplinary Actions.

<i>Business and Professions Codes</i>		
490	Relationship of conviction of a crime to licensed activity	7110.1
7018.5	Failure to provide notice to owner regarding lien provisions	7111
7026.7	Advertising as a contractor without a license	7111.1
7028	Acting in the capacity of a contractor without a license	7112
7029	Contracting as a joint venture without the required license	7113
7029.6	Failing, as a plumbing contractor, to display his name, address and contractor's license on each side of the commercial vehicle used in his business	7113.5
7030	Failing to include in a contract the notice that contractors are licensed by the Contractors State License Board	7114
7030.5	Failing to fulfill the requirement that the contractor's license number be placed on all contracts, subcontracts, calls for bid, and other forms of advertising	7115
7071.11	Judgment or admitted claim against bond	7116
7083	Failing to report a change of address, namestyle, or personnel within 90 days	7117
7097	Suspension of additional licenses	7117.5
7098	Revocation of additional licenses	7118
7099.6	Non-compliance with a final citation	7119
7107	Abandonment of a project without legal excuse	7120
7108	Diverted funds or property received for a specific job to other purposes	7121
7109	Willfully disregarded plans and specifications, or has failed to complete the job in a good and workmanlike manner	7122
7109.5	Violation of Safety Laws resulting in death or serious injury	7122.5
7110	Willful disregard and violation of building laws	7123
		7124
		7125
		7125
		7127
		7129
		7159
		7161(b)

Violation of Section 206.5 of the Labor Code
Failure to keep records and to make them available to a representative of the Registrar
Refusal to or failure to cooperate with deputy in investigation
Misrepresentation of a material fact on an application
Failure to complete a project for the price stated in the contract
Avoiding or settling for less than lawful obligations as a contractor through the various bankruptcy proceedings
Aiding and abetting an unlicensed person
Failure to comply with the Contractors' Law
Committing a willful or fraudulent act as a contractor
Acting as a contractor out of namestyle
Contracting with inactive license
Contracting with unlicensed person
Failure to prosecute a job with diligence
Failure to pay for materials or services
Prohibition against associating with suspended or revoked licensee
Participation of license in violating Contractors Law
Responsibility of Qualifying Person for acts committed by his/her principal
Conviction of a Felony in connection with construction activities
A plea of nolo contendere is considered a conviction
Employment of unregistered home improvement salesman
Participation in violation by a home improvement salesman
Model Home kickback prohibition
Failure to comply with contract requirements
False advertising

LICENSES REVOKED

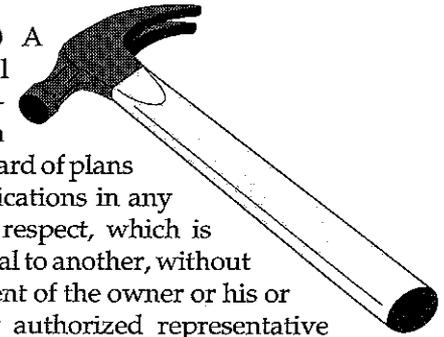
NAMESTYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
Argueta Brothers' Const. Co.	238 E. 107th St, Los Angeles, CA 90003	432065	7/9/88	7109, 7113, 7121
Barr, Lee E.	177 Cypress Av, Kenwood, CA 95452	473823	8/26/88	7107, 7109, 7110, 7111, 7113, 7119, 7120, 7121
Bay City Contractors	37466 Glenmoor Dr, Fremont, CA 94536	432811	7/7/88	7122.5
Beverly Hills Builders General Contractors	12614 Bessemer, North Hollywood, CA 91606	421902	9/14/88	7107, 7109, 7113, 7115(7018.5, 7030, 7159), 7116, 7117.6, 7121
Builders Express, Inc.	P.O. Box 2776, Capistrano Beach, CA 92624	441503	7/9/88	7098
Christian, John R.	3641 Clayton Rd. #32, Concord, CA 94518	463703	9/14/88	7107, 7109, 7110, 7113, 7117(a), 7121
Cliff's Floors	P.O. Box 1086, Pleasanton, CA 94566	391940	8/26/88	7099.6, 7121
Coast to Coast Construction, Inc.	7335 MacArthur Bl, Oakland, CA 94605	418985	8/26/88	7099.6, 7121.5
Concepcion, G.G. Const.	5224 Doris Wy, Torrance, CA 90205	288934	8/19/88	7107, 7108, 7111, 7113, 7115(7159), 7116, 7117(a), 7121
Concrete Building Systems	1895 W. Commonwealth, Fullerton, CA 92633	334379	9/14/88	7114, 7121

Disciplinary Action, continued from page 2

NAME/STYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
Construction By Josiah	2760 Mt. Pleasant Rd, San Jose, CA 95418	389361	7/1/88	7109, 7113, 7121
Darn Barn Construction	4277 Fanuel St, Pacific Beach, CA 92109	411121	7/24/88	7099.6, 7121
Day & Night Plumbing (Delfino, Inc., dba)	1835 Alvarado St, San Leandro, CA 94577	340754	8/26/88	7099.6, 7121
Dekora, A California Construction Corporation	18653 Ventura Bl, #327, Tarzana, CA 91356	414335	9/18/88	7098
Donoho, George A.	13470 Cirby Creek Rd, Oroville, CA 95965	310514	9/10/88	7099.6, 7121
Fiorella & Sons Construction Co.	6645 Coldwater Cyn. #106, No. Hollywood, CA 91606	396375	9/15/88	7107, 7108, 7111, 7113, 7114, 7115(7083, 7159), 7117, 7121
Heath, Larry Construction	1342 Fraser St, Ojai, CA 93023	405400	9/18/88	7099.6, 7121
Hesperia Fence Erectors	P.O. Box 2085, 9724 E Ave, Hesperia, CA 92345	250383	7/9/88	7107, 7108, 7109, 7110, 7111, 7113, 7115 (7026.7, 7030, 7159), 7116, 7117.6, 7119, 7120, 7121, 7154
Hickey Construction	P.O. Box 1660, Truckee, CA 95734	482129	9/14/88	7107, 7108.5, 7109, 7111, 7113, 7120, 7121
Hilsabeck, Val & Son	1050 N. Anaheim Bl, Anaheim, CA 92801	262802	9/3/88	7107, 7113, 7121
House & Mobile Energy Conservation	P.O. Box 6664, Bakersfield, CA 93386	453013	8/26/88	7109, 7113, 7121
Julian Energy Company	P.O. Box 2908, El Cajon, CA 92021	459222	7/29/88	7120, 7121, 7121.5
Kofmehl, R.L.	1928 Effie, Los Angeles, CA 90026	278844	9/18/88	7099.6, 7121
Korpie, George Leonard Jr.	13926 Califa St, Van Nuys, CA 91401	423089	8/23/88	7106
Kuehl Const Co.	351 Skyline, Vallejo, CA 94590	311551	8/6/88	7107, 7108.5, 7109, 7110, 7113, 7115(7083), 7121
Landstock Incorporated	1580 Dell Av, Ste. C, Campbell, CA 95008	387186	8/6/88	7099.6
Lauer, Kit (L.I. Construction Co. dba)	15 Penny Ln, Watsonville, CA 95076	351553	8/26/88	7122.5
Lauer, Kitrick (L.I. Construction Co. dba)	26B Hangar Wy, Watsonville, CA 95076	472446	8/26/88	7110, 7121, 7121.5, 7122, 7122.5
Layland, Douglas E.	7378 Aster Av, Yucca Valley, CA 92284	380501	8/21/88	7099.6, 7121
Lechleiter Fence Co, Inc.	10585 Limonite Av, Mira Loma, CA 91752	390150	7/9/88	7107, 7108, 7109, 7110, 7111, 7113, 7115 (7018.5, 7026.7, 7030, 7159), 7116, 7117(a), 7117.6, 7119, 7121, 7121.5, 7154
Lucas Richard	2076 E. French Camp Rd, Manteca, CA 95336	386841	7/21/88	7110, 7121
Major Builders	3266 Santa Sophia Wy, Union City, CA 94587	439040	7/7/88	7099.6, 7110, 7115 (7018.5, 7083, 7159), 7116, 7121, 7121.5
Mar-Sons, Inc.	7242 Fenwick Ln, Westminster, CA 92683	458831	7/9/88	7099.6
Merrill, Joseph C. 7115(7018.5, 7159), 7116, 7121	713 Graymont Cr, Concord, CA 94518	319368	8/15/88	7107, 7110,
Miller, Frederick D.	34052 #20 Dohney Pk Rd, Capistrano Bch, CA 92624	274399	7/9/88	7099.6, 7121
Mission Roofing	2429 South Boyd, Fresno, CA 93725	484043	9/14/88	7112, 7115(7026.7, 7026.10, 7030, 7159), 7116, 7117(a), 7117.6, 7121, 7122
Nelson, Jerald E. - Contractor	1221 E. Forest Lake Rd, Acampo, CA 95220	307537	7/7/88	490, 7109, 7112, 7113
Nikaj, Nosh	2155 Verdugo Bl, Ste. 313, Montrose, CA 91020	377019	7/29/88	7099.6, 7121, 7121.5
Olson, R.G. Const.	10651 Langmuir Av, Sunland, CA 91040	425195	7/24/88	7107, 7109, 7113, 7115(7030), 7121
Osburn Construction Co	1193 1st Av, Chula Vista, CA 92011	287084	7/29/88	7107, 7109, 7113, 7121
Pacific Coast Construction, Inc.	320 North Palm, Beverly Hills, CA 90210	409325	8/13/88	7107, 7113, 7114, 7115(7068.1, 7083, 7159), 7117(b), 7121

Workmanship, continued from page 1

"(b) A willful departure from or disregard of plans or specifications in any material respect, which is prejudicial to another, without the consent of the owner or his or her duly authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans or specifications, constitutes a cause for disciplinary action."



The new language states simply that if the contractor does the work and departs from trade standards (poor workmanship) and causes injury to the homeowner, then the contractor can be disciplined. The only exception is the poor workmanship that results from following the plans and specifications prepared by, or performed while working under the direct supervision of, an architect. While the contractor may have considered the work to be at variance with trade standards, he or she was following the instructions of an architect and therefore is able to claim mitigation.

AB 4005 must be considered in conjunction with AB 3841 which becomes effective January 1, 1989. This bill changed Business and Professions Code Section 7044 to require that an unlicensed property owner must use a general contractor to build residential structures if more than four such structures are offered for sale. The prior law only required that the owner use licensed contractors; this is still the case for four or fewer structures.

Taken together, these two legislative changes mean that the purchaser of a new residence may file a complaint with the Contractors State License Board against the licensed contractor who built the structure regardless of who owned the property at the time of the actual construction. The result of the subsequent investigation would depend on the willingness of the contractor to correct any valid complaint items and, if no corrections are made, the ability of the agency to prove a violation of these laws.

For most California contractors, the changes in law will not be a concern because most of this state's licensed contractors' work is above reproach. However, for those who are unable to avoid homeowner complaints regarding poor workmanship, the new law restores the Board's disciplinary powers that existed prior to the appellate ruling and further strengthens the Board's power to ensure that contractors can be held liable for performing poor work.

CSLB Licensing After the Amnesty Program

by Bob Berrigan, CSLB Licensing Manager



SB 2389, introduced by Senator John Doolittle, provided for an amnesty period concerning the use of non-licensed experience by applicants for a contractor's license. The amnesty period was from January 1, 1987 to December 31, 1988. During this time, more than 56,000 persons applied for a contractor's license. Almost 38,400 of these applicants fell under the SB 2389 provisions. The normal number of applicants per year is about 18,000 applying for an original license. This does not include about 12,000 applications for those licensees applying for a new business entity, such as a corporation or an additional license classification.

When the CSLB dug its way out from the thousands of applications that were filed just prior to the December 31st deadline, it faced a backlog of more than 36,000 applications! The period of January through September was chaotic for the units that process applications. The entire staff pitched in thousands of hours of overtime to eliminate this backlog. For the past eight months, more than 6,000 applicants have been administered the required examinations each month.

All of the amnesty applications have been processed and only a small number of applicants are waiting to take their examinations. The application units have almost returned to normal with processing times for an application with no examination required taking from 15-20 days. An applicant who is required to take the examination can expect to receive a test date within 15-30 days after filing an application. The Board allows a minimum of 30 days advance notice for an examination date.

The staff is proud of their accomplishments during this past year and looks forward to providing better service to all licensees now that the workload has returned to normal.

It is significant to note that the CSLB will license more than 50,000 contractors during 1988. The amnesty program has helped CSLB make significant progress in its goal to reduce the number of unlicensed contractors doing business in California. ■

Disciplinary Action, continued from page 3

LICENSES REVOKED

NAMESTYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
Pacific Land Builders	1925 46th Av. #11, Capitola, CA 95010	448934	7/24/88	7107, 7109, 7113, 7115(7018.5, 7159), 7121
Page Drywall	16025 Folger St, Hacienda Heights, CA 91745	408889	7/8/88	7099.6, 7121, 7121.5
Patterson, James	14818 Huston St, Sherman Oaks, CA 91403	404474	8/13/88	7099.6, 7121
Peterson's Personalized Dwellings	4407 Greene, San Diego, CA 92107	392334	8/13/88	7109, 7110, 7111, 7115(7159), 7117.5(a)
Pisano, Rick Roofing	16345 Los Gatos Bl, #45, Los Gatos, CA 95030	378466	8/6/88	7099.6, 7121, 7121.5, 7122.5
Pool Port Pools	14080 Osborne St, Panorama City, CA 91402	367659	7/29/88	7110, 7115(7018.5), 7117.5(b), 7161(b)
RB Construction (Ramune Brazis Inc. dba)	18653 Ventura Bl, #327, Tarzana, CA 91356	452275	9/18/88	7107, 7113, 7121, 7121.5
Reda, Albert R.	P.O. Box 53, Midway City, CA 92655	341258	9/14/88	7099.6, 7107, 7113, 7115(7159), 7116, 7117(a), 7117.5(b), 7117.6, 7121
Rick's Roofing (Pisano & Carnivale Roofing dba)	16345 Los Gatos Bl, #45, Los Gatos, CA 95030	451494	8/6/88	7098, 7108, 7113, 7120, 7121, 7121.5
San Francisco Roofing, Inc.	109 Thornton St, San Francisco, CA 94124	366444	8/13/88	7099.6
Schultz Construction	228 May Av, Santa Cruz, CA 95060	342355	8/26/88	7111, 7111.1, 7118, 7121
Sierra Pools	Rt #1, Box 92, Santa Maria, CA 93454	346706	7/9/88	7107, 7108, 7109, 7111, 7113, 7114, 7115(7167), 7116, 7120, 7121
Speece, Frank R. Jr.	P.O. Box 41748, Sacramento, CA 95841	496749	9/14/88	7098
Speece, Robert Properties, Inc.	P.O. Box 41748, Sacramento, CA 95841	357030	9/14/88	7108.5, 7120
Starco	1421 North Whitney, Fresno, CA 93703	508756	9/14/88	7098, 7112, 7121
Superior Stone of San Diego	8665 Mission Gorge Rd, C-1, Santee, CA 92071	442405	7/9/88	7107, 7109, 7113, 7115(7159), 7117.6, 7121.5
Thyring Construction	P.O. Box 7159, Halcyon, CA 93420	348125	9/15/88	7099.6, 7121
Tri-Phase Construction	5080 Bonita Rd, Bonita, CA 92002	395800	8/14/88	7029.1, 7107, 7109, 7120, 7121
Universal Builders	6953 Sierra Av, Fontana, CA 92335	319021	9/18/88	7099.6, 7121
Weather-Gard Roofing Service	450 E. Bradley Av, Space 57, El Cajon, CA 92021	283385	7/9/88	7107, 7121
Westphal's Painting Service (Wilhelmus J. Westphal dba)	8856 Pershing Av, Orangevale, CA 95662	185925	9/15/88	7109, 7113
Zenovic, Jeffrey C. General Contractor	5625 Glencrest Ln, Orangevale, CA 95662	346055	8/26/88	7108.5, 7107, 7111, 7115(7083), 7121, 7121.5

LICENSES SUSPENDED

NAMESTYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
O'Keefe, J. Cornelius, Sr.	P.O. Box 50410, Santa Barbara, CA 93150	228640	8/19/88 30 days	7109, 7113, 7114, 7121

Licensed Contractor Owner Cited for Signing False and Misleading Certificates of Experience

by David Shue, CSLB, San Francisco District Office

On August 9, 1988, the CSLB received a check for \$1,000 from Andrew Pan, a licensed contractor and owner of CCS (California Construction Services), as payment of the civil penalty assessed for two violations of Business and Professions Code Section 7114.1.

According to the Findings of Fact in the Proposed Decision in this case, Pan signed Certificates in Support of Experience Qualifications dated April 7 and April 13, 1987, attesting to the employment of Frank Rios at A.J. Electric from February 1983 through December 1983 and at Abbey Medical from March 1979 to October 1981. The certificates were false and misleading, in that they contained information concerning the dates of employment and the scope of work performed, not based on the direct personal knowledge of Pan, but rather on hearsay information provided to him by Rios. Furthermore, Pan indicated that his business relationship to Rios was as a "journeyman" and "contractor," when in fact Pan had no business relationship to Rios as to the claimed work experience.

Pan testified that, on a few occasions in 1983, he observed Rios on construction job sites. Pan was unaware, based on his own personal direct knowledge, of whether Rios was employed by A.J. Electric at the time of these observations. Pan's opinion that Rios was capable of performing work at the journeyman level was based on his observation of Rios performing small repair jobs for him, and not based on any direct observation of his work for A.J. Electric or Abbey Medical.

In addition, the description of Rios' duties, including "installation of electrical services, subpanels, branch circuits, at commercial and residential sites" was particularly misleading because it gave the impression that these duties were performed for Abbey Medical, when in fact they were not, and this fact was known to Pan when he signed the certificate.

Pan indicated that his business relation-

ship to Rios was as a customer of Abbey Medical. Pan testified that he went to Abbey Medical on approximately four occasions and observed Rios at work for no more than 10 minutes per visit. Pan's purported knowledge of Rios' expertise in electrical contracting was based on a couple of jobs that Rios performed at Pan's home, and was not based on any direct observation of his work for Abbey Medical or A.J. Electric.

The certificates prepared by Pan were submitted to the CSLB for the purpose of obtaining a contractor's license for Rios.

Pan owns and operates CCS, a school for contractors, and in that capacity assists students in preparing applications for contractors licenses. Rios was a student at Pan's school. Pan admitted that he was familiar with the Board's Certificate in Support of Experience Qualifications form, that he read both sides of the form, and that he understood it. In at least three places, the form indicates that direct knowledge of the applicant's experience by the attesting party is required; "direct knowledge" is defined on the form as "knowledge of the truth in regard to a particular fact, which is original, and does not depend on information or hearsay." The form further states that the attesting party may be required to provide documentation to verify all experience listed. The form also contains a warning that certifying false or misleading information by a licensee may subject the licensee to discipline under Business and Professions Code Section 7114.1. Pan's assertion that he did not intend to mislead the Board by signing the two certificates on behalf of Rios was neither credible nor persuasive as a factor in mitigation.

Andrew Pan was assessed the minimum recommended penalty of \$500 for each of the violations alleged. Frank Rios' application was denied. Both Pan and Rios appealed the decisions against them. The decisions were upheld by the Administrative Law Judge. ■

Legislative Summary,

continued from page 1

SB 2386 (Campbell). Contractors. Requires any public works contract of any public entity to include an affidavit affirming that the bidder has not participated in various collusive activities. Governor signed 09/29/88, Chapter 1548.

AB 3789 (Eastin). Contractors: unlicensed individuals. Amends Business and Professions Code Section 7099.85 to provide that failure of an unlicensed contractor to comply with a citation is a misdemeanor. Governor signed 08/30/88, Chapter 725.

AB 3841 (Eastin). Contractors. See *Contractors Liable for Workmanship Under New Law* on page 1 of this issue for additional discussion of AB 3841. The law provides for the exemption from licensure those property owners who construct single-family residential structures only if four or fewer of these structures are intended or offered for sale in a calendar year. This limitation would not apply if the owner of property contracts with a general contractor (Business and Professions Code Section 7044).

Provides that complaints referred to arbitration in accordance with Section 7085 of the B & P Code shall not be disclosed to the public until the registrar has initiated an investigation into an alleged violation of an arbitration award.

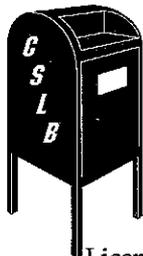
Provides that as of January 1, 1990, the installation of all fire protection systems must only be performed by a contractor holding a fire protection contractor license.

Requires that starting January 1, 1989, records for all completed construction projects or operations must be maintained for 5 years. (Business and Professions Code Section 7111) Governor signed 09/20/88, Chapter 1035.

AB 4005 (Bradley). Contractors: discipline. For a discussion of this new law, see *Contractors Liable for Workmanship Under New Law* on page 1 of this CLC.

In addition to the features of the new law as they apply to Section 7109 separating the issue of workmanship from the need for a contract, the bill also extends the CSLB pilot project with local building departments that reimburse them for issuing citations to unlicensed contractors to July 1, 1989. It also increases the reimbursement fee to \$50.00 per citation. Governor signed 09/30/88, Chapter 1619. Reduced appropriation from \$165,000 to \$119,000. Urgency bill effective: 09/30/88.

Legislative Summary, continued on page 7



Keep Your Address Current

...or run the risk of missing something important

License Law requires that a change of address be reported to the Registrar within 90 days after the change. It is important to keep the CSLB informed of your current address in order to receive renewal applications and

other information necessary to keep your license active and in good standing.

Additionally, the *California Licensed Contractor* is mailed your address of record. It is our primary means of communicating with you about laws, regulations, and other matters that can affect your contracting business and license status. If you move, please let us know!

Unlicensed Contractors Fuel California's Underground Economy

Unfair competition and unreported/untaxed income are just two of the acknowledged effects of contracting without a license. However, the consequences of unlicensed contracting activities are felt by all Californians who pay taxes. California's underground economy is estimated to cheat law-abiding Californians out of \$2 billion every year.

According to the Governor's Multi-Agency Task Force on the Underground Economy, an estimated \$30 billion in taxable business transactions are conducted annually without being reported.

Workers are hurt by the underground economy when employers do not make contributions to social security or unemployment insurance, do not collect for state disability insurance or do not provide worker's compensation coverage. When those workers subsequently are laid off, retire or become injured, they do not receive the protections or benefits to which they are entitled.

Employers who obey the law and do pay taxes are also victimized. If their competitors do not pay income, payroll and other taxes, the law-abiding employers are at a serious competitive disadvantage.

All taxpayers are hurt because they have to subsidize this illegal activity by paying the taxes that the tax cheaters don't pay.

In an attempt to check the economic and regulatory effects of the unlicensed contractor on the underground economy, the CSLB has undertaken a targeted enforcement program. During the past six months, the Board has identified and cited almost 700 unlicensed contractors. Successful "sting operations" have been mounted in northern California cities with the assistance of local district attorneys responsible for prosecuting the cases made by CSLB investigators.

This effort to cite unlicensed contractors has not been exclusively punitive. In many

instances, at the time the citation was issued, if the unlicensed contractor was found to be a first-time offender whose case was not serious in nature, the CSLB investigator also offered a state contractors license application to the violator.

On another front, an article in the fall issue of the California Licensed Contractor described the role of local building inspectors assisting the CSLB with its enforcement responsibilities (Non-Licensed Citations by Local Building Inspectors, page 5). Legislation has provided an extension of the program, which began in June 1988, to run until July 1989. As this issue goes to press, there are eight participating cities and counties, including the cities of Los Angeles, Big Bear, San Clemente, Watsonville, Galt, and Benicia and the counties of San Diego and Monterey.

The extension of the program also allows up to ten cities or counties to participate. When the program began, the fee paid to building departments for issuing a citation to an unlicensed contractor was \$25. Legislation has raised that fee to \$50. The CSLB expects to add two more building department jurisdictions to the program soon.

However, the CSLB cannot expect to close the flood-gates of this state's enormous underground economy simply with the assistance of local district attorneys and building officials. Law-abiding contractors and tradespeople can have a potent role in aiding our efforts as well.

There are several scenarios in which you as an employee can tell when someone may be violating tax or labor laws. You are paid for work or services in cash or by check without a deduction statement. Your company does not provide workers' compensation coverage. You are asked to sign a statement saying you are an "independent contractor." You are an hourly-wage employee and are not receiv-

ing overtime pay for the extra hours you work. Your paycheck is drawn on a materials, tool or other non-payroll account.

The Governor's Multi-Agency Task Force on the Underground Economy was established to provide a coordinated statewide approach to deal with this costly issue. If you know of someone who is making a contribution to the underground economy, at our expense, you are encouraged to contact the toll-free hotline, 1-800-822-4557. A member of the Task Force will take your information and forward it to the proper authorities for action. You may give your information and request that any further contact be on a confidential basis.

In order to proceed with its referral and investigation, the Task Force needs your name, address and, if possible, the phone number of the individual, employer or business you believe to be cheating. They also need to know the type of tax violation, when and where the violation occurred, and an estimate of how much money was involved. Such information as the job or project address and the name of the owner is also essential to proceed with an investigation.

This Board needs the cooperation of all licensed contractors to get unlicensed operators licensed and working according to the same set of state standards, rules and tax laws. When we are all playing by the same rules and paying our fair share for the opportunity to do legitimate business in California, then we can also expect to pay less as more revenues are reported and more employees and consumers are covered by the laws designed to protect them.

In addition to the CSLB, member agencies of the Task Force include the Employment Development Department, Franchise Tax Board, Division of Labor Standards Enforcement and Internal Revenue Service. ■

New "C-14" Metal Roofing Classification

The Contractors State License Board has established a new C-14 classification for the installation of metal roofs (Board Rule 832.14).

Board Rule 832.14 states: "A metal roofing contractor installs and repairs metal roofing systems which prevent water and weather from entering the structure through the roofing system. This classification does not include the work of a roofing contractor (C-39) for installation of non-metal roofing

systems, nor the work of a sheet metal contractor (C-43) for the installation of sheet metal, nor the work of a structural steel contractor (C-51) for the installation of structural steel members."

Contractors who are installing metal roofs will be required to obtain this classification. Applicants are required to document 4 years of experience in metal roofing work. In addition, contractors who hold a C-39 Roofing and/or a C-43 Sheet Metal license will be

required to obtain this classification in order to continue installing metal roofs.

The examination for this classification has been prepared and is ready to be administered. The Board will begin accepting applications immediately. A study guide is available for the C-14 examination.

Questions regarding this new classification may be submitted in writing to the Contractors State License Board, P.O. Box 26000, Sacramento, CA 95826. ■

Legislative Summary, continued from page 5

Measures Vetoed by the Governor:

AB 3953 (Polanco). Contractors data base. Appropriates \$300,000 from the CSLB License Fund to CSLB for the purpose of conducting a pilot project to develop, implement, and assess the merit of a central data base of contractor information, including contractor information from small, minority, and women-owned businesses. VETOED 09/28/88.

SB 2593 (Lockyer). Incoming telephone calls. Would require each state agency to establish a procedure to answer incoming telephone calls within 10 rings during regular business hours. VETOED 09/23/88.

Legislative measures that did not complete the process by the end of session:

AB 2118 (Mountjoy). Public works contracts: foreign contractors. Requires a foreign national contractor who bids on a public works contract to be 10% below the second lowest bidder in order to be awarded the contract, if the contractor's country is listed by the U.S. Trade Representative as a country failing to provide full and equal access to American-based contractors. It would permit bidders to file a complaint to enforce its provisions. Re-refer to Assembly Committee on International Trade and Intergovernmental Relations, 06/20/88.

AB 3060 (Floyd). Public works contracts. Requires the State Treasurer and Office of Small and Minority Business to make annual reports on statewide participation goals for minority and women-owned businesses.

Would require public entities, the University of California and the California State University systems, prior to awarding a public works contract, to contact the CSLB to determine whether the contractor's license is in good standing. Existing law provides that in lieu of this verification that state agencies or departments may require presentation of the license and a statement signed by the person seeking the contract under penalty of perjury. Senate Rules, 08/16/88.

AB 3384 (Floyd). License fees: CSLB. Would create a Division of License Enforcement within CSLB for the purpose of rigorously enforcing the Contractors License Law prohibiting unlicensed activities. Would appropriate \$850,000 to the Board from the Contractors License Fund for that purpose. Conference Committee, 08/31/88.

AB 4244 (Farr). Contractors. Would exempt from license requirement work con-

ducted by gas, heat or electrical corporations regulated by the Public Utilities Commission for which a contractor's license is normally required. This work must be limited to the corporation's properties or properties that are significant electrical or gas customers of the corporation and may include large commercial/industrial consumers as well as low-income residential customers. Assembly Committee on Governmental Efficiency & Consumer Protection.

AB 4456 (Polanco). Contractors. Would appropriate \$750,000 from the Contractors License Fund (\$250,000 for each fiscal year, 1988-89 and 1989-90) for enhancement of the Board's investigation and enforcement program and \$250,000 for a two-year study by the Board assessing the effectiveness of the investigation and enforcement program to be presented to the Governor and the Legislature by July 1, 1991. Assembly 2nd Reading.

AB 4571 (Duplissea). Contractors. Would exempt from licensure an independent owner-operator when his or her services are performed for a licensed contractor or when the services performed do not require a contractor's license. "Independent owner-operator" is defined as an individual who owns and personally operates equipment in the performance of service. Assembly Committee on Governmental Efficiency & Consumer Protection.

SB 1875 (B. Greene). Public Works. Would make a contractor who has not held a valid contractor's license in the appropriate classification for at least six months prior to submission of a bid ineligible to bid on public works. The bill would exempt joint ventures from the requirement provided that all members of the joint venture have held current active licenses for at least six months. Assembly Governmental Organization.

SB 2163 (Presley). Contractors. Starting January 1, 1989, would require contract provisions about the substitution of securities for any money withheld to ensure performance, and specification on types of securities that may be substituted for money withheld, to be included in any invitation for bid and any contract documents. Would further require that, if a contract is to include a provision for the substitution of securities for money withheld, the escrow agreement containing the contract provision must be in the appropriate form as required in the bill. Assembly 2nd Reading, 08/28/88.

SB 2385 (Campbell). Carpets: commercial operations: licensure. Would delete the provision that installed carpets are not considered finished products and would also delete provisions of License Law, which provide that a contractor who installs or contracts for the installation of carpet is expressly in-

cluded within the definition of a specialty contractor. This bill would also include carpeting under the Home Furnishings Act, requiring a separate license issued by the Bureau of Home Furnishings in order to sell, renovate, install, or lay carpet. Senate 2nd Reading, 4/13/88.

AB 4427 (Ferguson). Contractors License Fund. Would provide that immediately following the end of each fiscal year, the CSLB rebate to each person who has paid a license fee, a proportionate share of any money in the Contractors License Fund in excess of \$1 million. Dropped by author. ■

Asbestos Laws Change Again

by Bob Berrigan

New legislation regulating the certification of contractors qualified to remove and encapsulate asbestos goes into effect July 1, 1989. AB 2999 by Assemblywoman Jackie Speier (see *Legislative Summary*, page 1) prohibits any person from advertising for the removal of asbestos unless certified for that work. The law also requires that the contractor's license number and the Cal/OSHA registration number be included in that advertising.

The statute provides that the CSLB may not issue an asbestos certification unless the contractor is registered with the Division of Occupational Safety and Health (Cal/OSHA).

An exception provides that the contractor acknowledges in a written statement that the certification is required solely for the purpose of bidding on a project involving asbestos-related work. In this circumstance, the contractor would be required to subcontract the asbestos work to a properly certified contractor.

The contractor who is asbestos-certified is required to provide proof of current registration with Cal/OSHA upon application for renewal of a contractor's license.

Under provisions of the law, the CSLB will provide comprehensive information to the public about contracting for the removal or encapsulation of asbestos. The CSLB will develop a consumer-brochure similar to "A Contractors Guide to Asbestos."

Asbestos abatement continues to be a subject of great concern to the public and the construction industry. For answers to specific questions regarding these legislative changes or any of the licensing requirements for asbestos abatement, write to Bob Berrigan, CSLB Licensing Deputy, P.O. Box 26000, Sacramento, CA 95826. ■

Consumer Affairs Special Recognition for CSLB Staff

At the October 28, 1988 meeting of the CSLB in Irvine, Chairman Stephen H. Lazarian, Jr. introduced into the record a letter addressed to Bob Berrigan, Licensing Deputy, from Michael Kelly, Director of the State Department of Consumer Affairs.

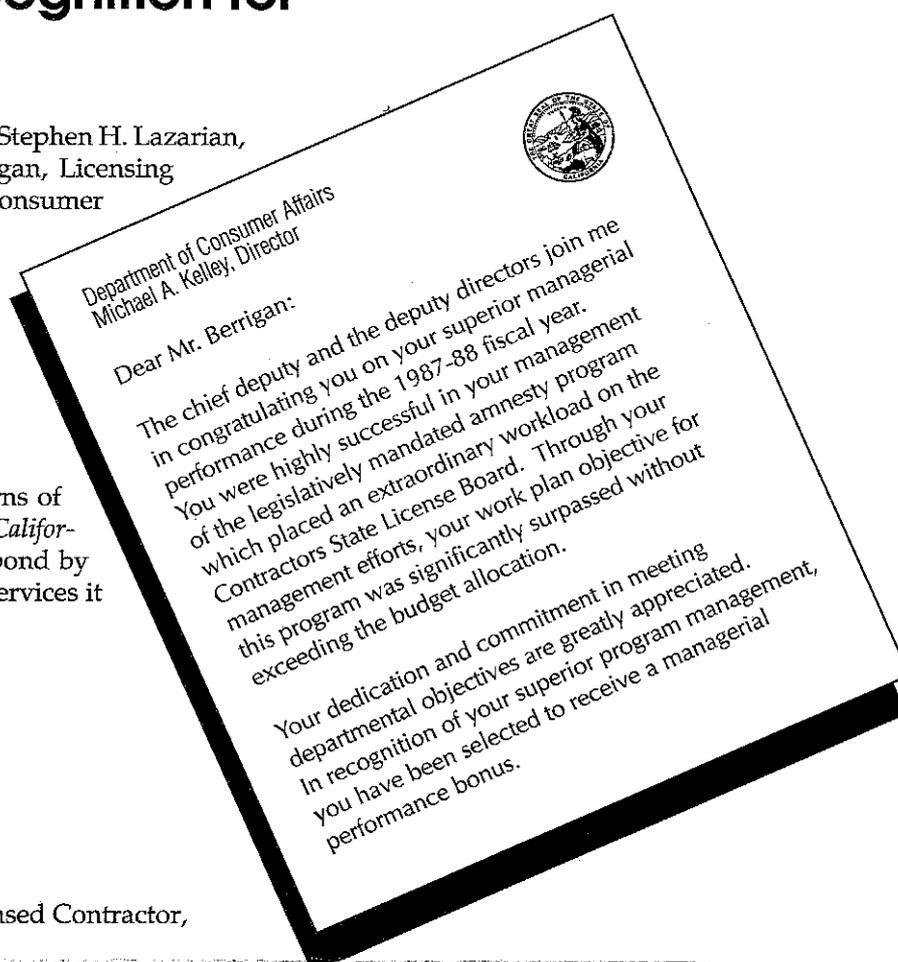
As Chairman Lazarian noted, "the letter speaks for itself and the Board is proud of the fine job done by Bob."

We Want to Hear from You!

In an attempt to keep pace with the needs, interests and concerns of Licensed Contractors, the Contractors State License Board and the *California Licensed Contractor* would like to hear from you. Please respond by letting us know what we can do to improve this board and the services it offers you in the following areas:

- Public education.
- Speakers or media materials for public meetings
- Policing Contractors
- Policing Illegal/Unlicensed Contractors
- Brochures and other printed material
- Other suggestions

You may address your suggestions to the Editor, *California Licensed Contractor*, P.O. Box 26000, Sacramento, CA 95826.



Official Publication

Contractors State License Board

P.O. BOX 26000

Sacramento, California 95826



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