

California Licensed Contractor

DAVID R. PHILLIPS, Registrar

Spring 1989

GEORGE DEUKMEJIAN, Governor

License Renewal Notification Date Advanced Expect better service for active license renewals

An active contractors license must be renewed every two years in order to remain in good standing. The CSLB has adopted several new procedures that will provide better service to all licensees seeking to renew their active license (inactive renewals are every four years).

First, the renewal notices are now being mailed out 90 days in advance of the license expiration date. Previously, the renewal notices were mailed out 4-6 weeks prior to the expiration date. This will allow more time to complete and return the renewal application to the CSLB, well in advance of the license expiration date. Additionally, licensees will be receiving their pocket licenses about six weeks sooner than was possible in the past.

Staff has been aware of the problem that many licensees have had when attempting to pull building permits and without having a current pocket license. The renewal procedure will be even more efficient if the completed renewal form is returned to the CSLB promptly after receipt by the licensee.

Remember, the sooner we get the renewal form from you, the sooner we can have your pocket license in the mail to you!

CSLB staff occasionally have to reject the renewal forms we receive. The renewals unit reports that the three most common reasons for returning renewal forms are:

1. Inappropriate signatures; the person signing is not listed on the CSLB records. The renewal form itself lists the personnel on our records. The qualifier and one of the officers listed must sign the form. Remember to notify the CSLB of officer changes and this will not be a problem.
2. Licensee changes business entities since the last renewal. For example, a sole proprietorship licensee incorporates, but neglects to obtain a new license for the corporation. When the renewal form for the sole proprietorship is submitted, it is signed as "President."
3. The open-book asbestos examination "Answer Sheet" (pages 25 and 26) is not returned with the completed renewal form. The requirement to complete the open-book asbestos exam remains in effect through December 31, 1989.

CSLB staff are attempting to provide the very best services to all licensees. We hope that these new procedures are a step in that direction. Comments or suggestions may be directed to Bob Berrigan, Licensing Deputy, P.O. Box 26000, Sacramento, CA 95826. ■

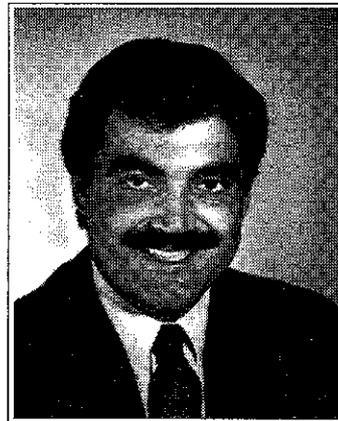
Comments from the Chair

by Stephen H. Lazarian, Jr.

As we move into the second half of our fiscal year at the Contractors Board, I am pleased to report to you that much progress has been made in many of the areas discussed in my last article (*Fall 1988 CLC*). We have been working at the Board/Committee levels to develop many of the ideas that have come from industry, the public and the Board itself.

The Board will be holding a public hearing to consider giving the Registrar the ability to waive the exam for licensees who apply for additional licenses, based on certain criteria being met in certain trade classifications. That item is moving through the committee review process and, after the hearing before the Board, it will be submitted to the Office of Administrative Law for approval and enactment. We hope to see action on this in the near future.

We are also considering the elimination of the trade examination for the C-61 classification. The Licensing Committee is currently reviewing the possibility of an entry level experience requirement of two years rather than the current four years for a C-61 license. That would allow many unlicensed contractors to become licensed in their limited specialty classes. The Board would also require that all such C-61 license classifications contain limiting language to prohibit



Chairman Stephen H. Lazarian, Jr.

individuals from practicing their trade beyond the scope of their abilities.

The Board has requested that a clarification of our current experience requirements be made through the legislature. The Board has determined that self-employed experience is as credible as experience by an employee of a licensee or of a non-licensee, and that we should consider such self-employed experience upon application. We would not, of course, consider an application from any person who had been cited for unlicensed activities, at least for a specified period of time after the

citation was issued.

The Board has acted to implement a regulation that would allow for the crediting of up to five points toward any examination, for a license classification in which the applicant has at least four years of experience. The applicant would then receive one-half point credit for every year of experience beyond four years. This provision will eliminate the need for many applicants to retake the exam if they fail by only a couple of points.

We were mandated by law last year to conduct a complete analysis and report to the legislature with regard to the possibility of requiring interior decorators to be licensed. We completed the study and submitted

continued on page 8, from the Chair

Cal/OSHA Back in Business

From: *The Division of Occupational Safety and Health*

To: *General Building Contractors, Employers Engaged in Asbestos-Related Work, Employers Who Use Carcinogens, and Explosives Users.*

The California Division of Occupational Safety and Health resumed enforcement of state occupational safety and health standards and appropriate provisions of the State Labor Code at private sector places of employment effective May 1, 1989. It is expected that Cal/OSHA will be fully operational and that Federal OSHA will return full jurisdiction to the state program by September 30.

In addition to responding to complaints, accidents and conducting follow-up inspections, the state will again enforce, in the private sector, state requirements regarding construction permits, carcinogen use reports, asbestos registration and blasters' licenses. Informational notices dated August 17, 1987 regarding these matters as they pertain to private sector employers are therefore canceled, and the following now applies.

Construction Permits

The Division will enforce the requirement that building and construction contractors obtain a permit prior to commencing certain types of hazardous activity,

continued on page 7, Cal/OSHA

California Licensed Contractor

Official Publication of the
Contractors State License Board

Spring 1989

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
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John Lazzara	Labor Member
Don MacGillivray	B-Contractor
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John H. Moore	C-10 Contractor
Alexander Rados	B-Contractor
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Benny Y.-Yee	Public Member

1988-89 Committee Assignments

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Marla Marshall, Chairperson

Licensing Committee

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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
October 1988 to December 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	7111 Failure to keep records and to make them available to a representative of the Registrar
7018.5	Failure to provide notice to owner regarding lien provisions	7111.1 Refusal to or failure to cooperate with deputy in investigation
7026.7	Advertising as a contractor without a license	7112 Misrepresentation of a material fact on an application
7028	Acting in the capacity of a contractor without a license	7113 Failure to complete a project for the price stated in the contract
7029	Contracting as a joint venture without the required license	7113.5 Avoiding or settling for less than lawful obligations as a contractor through the various bankruptcy proceedings
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	7114 Aiding and abetting an unlicensed person
7030	Failing to include in a contract the notice that contractors are licensed by the Contractors State License Board	7115 Failure to comply with the Contractors' Law
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	7116 Committing a willful or fraudulent act as a contractor
7071.11	Judgment or admitted claim against bond	7117 Acting as a contractor out of namestyle
7083	Failing to report a change of address, namestyle, or personnel within 90 days	7117.5 Contracting with inactive license
7097	Suspension of additional licenses	7118 Contracting with unlicensed person
7098	Revocation of additional licenses	7119 Failure to prosecute a job with diligence
7099.6	Non-compliance with a final citation	7120 Failure to pay for materials or services
7107	Abandonment of a project without legal excuse	7121 Prohibition against associating with suspended or revoked licensee
7108	Diverted funds or property received for a specific job to other purposes	7122 Participation of license in violating Contractors Law
7109	Willfully disregarded plans and specifications, or has failed to complete the job in a good and workmanlike manner	7122.5 Responsibility of Qualifying Person for acts committed by his/her principal
7109.5	Violation of Safety Laws resulting in death or serious injury	7123 Conviction of a Felony in connection with construction activities
7110	Willful disregard and violation of building laws	7124 A plea of nolo contendere is considered a conviction
7110.1	Violation of Section 206.5 of the Labor Code	7124.5 Employment of unregistered home improvement salesman
		7125 Participation in violation by a home improvement salesman
		7157 Model Home kickback prohibition
		7159 Failure to comply with contract requirements
		7161(b) False advertising

LICENSES REVOKED

NAMESTYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
A & H Plumbing	PO Box 189, Fair Oaks, CA 95628	199919	10/28/88	7098
Able Constructors	PO Box 9366, Fresno, CA 93792	235045	10/23/88	7071.11, 7112, 7114.1, 7120, 7121
Advanced Concrete Systems Inc	PO Box 1028, Placentia, CA 92670	472561	12/10/88	7113, 7120, 7121, 7121.5
Allen, Bernard J.	10341 Orangewood Av, Garden Grove, CA	92640 367183	11/12/88	7107, 7113, 7115 (7159), 7120, 7121
American Vinyl Pools	PO Box 627, Silverado, CA 92676	439876	12/10/88	7107, 7116, 7121
Apache Remodelers, Inc	4720 63rd St, San Diego, CA 92115	461383	12/10/88	7107, 7109, 7111, 7113, 7115, (7030, 7068.1, 7159), 7116, 7119, 7121, 7121.5, 7122.5
Armtrout Development Co.	13365 Dry Creek Rd, Auburn, CA 95603	335130	10/23/88	7098
Arroyo Grande Roofing Co	224 Garden, Arroyo Grande, CA 93420	427727	12/15/88	7099.6, 7121
Atlantis Pools	6930 Antelope Rd, Citrus Heights, Ca 95621	362507	12/10/88	7098
B R B Construction	319 Dorman Av, Yuba City, CA 95991	485761	11/11/88	7107, 7109, 7110, 7113, 7115 (7159), 7098

Disciplinary Action, continued from page 2

NAME/STYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
Barckley-Martin, Inc	68-703 Perez Rd #12, Cathedral City, CA	92234 449743	10/16/88	7110
Begley, B.R.	PO Box 473, Pacific Grove, CA	93950 285463	11/11/88	7098, 7109, 7113, 7114
Bill's Construction	2424 Fontezuela Dr, Hacienda Heights, CA	91745 333806	12/16/88	7099.6, 7121
Boone's Larry Painting	8120 Joaquin Wy, Shingle Springs, CA	95682 285956	10/1/88	7109, 7113, 7115 (7083, 7071.13), 7115.5(b), 7161(b), 7121
Brewer, Greg	807 Natoma St, Folsom, CA	95630 399884	12/16/88	7108, 7111, 7120, 7121
Cable Telecommunication	3265 Blue Bonnet Trail, College Park, GA	30349 434424	12/16/88	7099.6, 7121
Cal-Engineering-Concrete Co., Inc.	555 Oakdale St, Ste. D, Folsom, CA	95630 470170	11/26/88	7098
Cal-Sierra Development & Construction Co, Inc.	PO Box 207, Loomis, CA	95640 469181	11/26/88	7098
Cal Sierra Construction Co, Inc.	PO Box 207, Loomis, CA	95640 473482	11/26/88	7112, 7121
Capital Construction	PO Box 935, Clovis, CA	93612 426761	12/21/88	7109, 7113
Castle Roofing	5550 Hollister Av #B, Goleta, CA	93117 349822	12/15/88	7099.6, 7121
Chain Construction	PO Box 189, Fair Oaks, CA	95628 323852	10/28/88	7099.6, 7121
Chain Construction Incorporated	PO Box 189, Fair Oaks, CA	95628 384926	10/28/88	7099.6, 7121
Continental Pools East, Inc.	5668 Brisa St, Ste. A, Livermore, CA	94550 367261	12/23/88	7109, 7113, 7120, 7121.5
Cozby, David D. Construction	7714 Hyssop Ct, Citrus Heights, CA	95610 433283	12/1/88	7107, 7110, 7111.1, 7113, 7114, 7115 (7028, 7159), 7117(b), 7121
De Anza Construction	19841 Greenview Dr, Twain Harte, CA	95383 507544	12/10/88	7112, 7121
Debco Building Co, The	6451 Newark Av, Corcoran, CA	95212 363570	11/26/88	7099.6, 7121
E A M Contractors & Developers, Inc.	PO Box 1362, Rialto, Ca	92376 489503	11/15/88	7098, 7121
Edifice Cabinet Builders	16035 Bridger St, Covina, CA	91722 344628	12/15/88	7099.6, 7121
Fania Jim	211 Calle Cortez, San Clemente, CA	92672 398219	10/15/88	7099.6, 7121.5
Flores, Benito Davalos	11833 167th St, Artesia, CA	90701 356324	11/9/88	7099.6, 7109, 7113, 7121, 7121.5
Fogle, Craig	30522 Passageway Pl, Agoura, CA	91301 351294	12/7/88	7107, 7109, 7110, 7113, 7115 (7028, 7030)
G and H Development	2424 Fontezuela Dr, Hacienda Heights, CA	91745 410454	12/16/88	7098
Globe Plum Co.	12005 Allgheny St, Sun Valley, CA	91352 292677	11/4/88	7099.6, 7121
Grandview Distributors Incorporated	13079 Artesia Bl, Ste 232, Cerritos, CA	90701 500388	12/16/88	7098
Gregor Construction Company	8380 Sausalito Av, Canoga Park, CA	91304 374151	12/7/88	7107, 7109, 7111, 7113, 7115 (7159), 7116, 7121
Griffin, William Construction	PO Box 4364, Salinas, CA	93912 468446	12/16/88	7107, 7109, 7113, 7115 (7159), 7121
Gross Roofing Co	7092 Broadway, Lemon Grove, CA	92045 411887	12/23/88	7098, 7122.5
Hutchison Roofing Co Inc	PO Box 895, Lemon Grove, CA	92045 437727	12/23/88	7107, 7109, 7113, 7116, 7121.5
J L Construction	3941 Veselich Av, Bldg 4, #153, Los Angeles, CA	90039 428497	12/18/88	7107, 7109, 7113, 7115 (7159), 7121
Karnes, Ed	9151 Collett, Sepulveda, CA	91343 352941	12/23/88	7109, 7110, 7113, 7115 (7159), 7117.6, 7121
Kelley, Michael O.	Rt. 1, Box 259 K, Oakley, CA	94561 441389	12/16/88	7099.6, 7121
Kirk, James Roy	639 N. Lyall Av, West Covina, CA	91790 363941	12/16/88	7099.6, 7121.5
Linco Inc.	10341 Orangewood Av, Garden Grove, CA	92640 478121	11/12/88	7098
Martin, Bill A.	PO Box 519, La Mesa, CA	92041 177412	12/10/88	7122.5
Martin, Michael T. and Sons	5782 N. Date Av, Rialto, CA	92376 343069	10/16/88	7110, 7121.5, 7122.5
McDaniel, Jack L. General Contractor	1212 Sprucetree Cir, Sacramento, CA	95831 445111	10/28/88	7107, 7109, 7111, 7113, 7115 (7029.1, 7159), 7120
Northridge Glass and Mirror	18255 Parthenia, Northridge, CA	91325 191367	12/16/88	7107, 7110, 7115 (7030, 7083, 7159), 7116, 7117(a), 7121.5
Owner Builder Concepts (Holcomb Valley Mining Co dba)	PO Box 6060, Big Bear Lake, CA	92315 4538751	2/23/88	7107, 7110, 7115 (7030), 7121.5
Pacific Custom Mountain Homes	PO Box 1883 and/or 1809 Hugo, Big Bear Lake, CA	92314 317155	12/23/88	7122.5
Pacific Frontier Homes Inc.	17975 N. Highway 1, PO Box 1247, Ft. Bragg, CA	95437 275275	11/10/88	7107, 7109, 7113, 7115 (7159)
Pacific Water Systems	PO Box 1058, Oakley, CA	94561 284584	12/15/88	7099.6, 7121

continued on page 4, Disciplinary Action

State Supreme Court finds for CSLB

"...Failure of a contractor to honor an express written warranty constituted a violation of sections 7107 and 7113 ... the scope of a construction project or operation was defined by the contract between the parties, and ... the project continues beyond the physical completion of construction..."

At its April 1989 Board Meeting in Los Angeles, Deputy Attorney General Ron Russo presented the following California State Supreme Court opinion to the members of the Board. According to Steven M. Kahn, the Deputy Attorney General responsible for representing the Board before the State Supreme Court in this matter, "The Court agreed that the failure by a contractor to honor an express written warranty constituted a violation of sections 7107 and 7113. It concluded that the scope of a construction project or operation was defined by the contract between the parties, and that the project continues beyond the physical completion of construction.

In reaching its conclusion, the Court also held that the Contractors License Law was not penal in nature and should not be narrowly construed." Because of its significance, the opinion is reproduced here in its entirety.

In the Supreme Court of the State of California
April 17, 1989

VIKING POOLS, INC., Plaintiff and Appellant,

v.

Jack Maloney, Registrar of Contractors, etc.,
Defendant and Respondent.

S00457

(Ct. of Appeals Civ. C000298)

(Super. Ct. No. 81041)

In this case we must decide whether a contractor's breach of an express, written warranty is a ground for discipline under the Contractors' License Law (Bus. & Prof. Code, § 7000 et seq.).^{1/} For the reasons set forth below, we conclude that it is.

In 1977, Viking Pools, Inc. (Viking) entered into a written contract with William and Viola Ostrom to supply and install a fiberglass pool for \$5,038.02. The Ostrosms originally considered purchasing the pool and installing it themselves. They changed their minds, however, when Viking informed them that there would be no warranty unless the Ostrosms contracted with Viking to install the pool. The Ostrosms entered into such a contract with Viking on August 15, 1977, specifically because they wanted the warranty. Viking completed installation of the pool on August 25, 1977, and immediately thereafter the Ostrosms paid Viking in full.

Viking warranted in pertinent part that "Provided Viking has installed the pool, Viking warrants to repair or replace defective material or installation thereof for a period of 10 years from the date hereof" except for any defect in the pump or filter.

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Law and Reference Book Available

The 1988 California Contractors License Law and Reference Book is now available. Copies may be purchased for \$7.05 from the Department of General Services, Office of Procurement, Documents Section:

Counter Sales:

4675 Watt Avenue
North Highlands, CA
(916) 973-3700, Monday - Friday,
8:00 a.m. to 5:00 p.m.
or in limited quantities at
714 P Street
Sacramento, CA 95814

Mail Order:

General Services, Office of Procurement
P.O. Box 1015
North Highlands, CA 95660

Beginning with the July 1989 administration of the CSLB law and business examination, the new law book will be the reference source.

The CSLB does not sell the book and has no means to do so. Please contact the Department of General Services to obtain the book. ■

Underground Storage Tank Testers Licensed

by Thomas Micka, Water Resources Control Engineer,
State Water Resources Control Board

On September 29, 1987, Governor Deukmejian signed AB 1413 (Chapter 1372, Cortese) adding Section 25284.4 to the Health and Safety Code. Under this section, the State Water Resources Control Board (SWRCB) is responsible for the administration of the Tank Tester Licensing Program. On and after January 1, 1990, all tank integrity tests must be conducted by, or under the direct and personal supervision of a licensed tank tester.

The SWRCB is proposing to administer two licensing examinations during the 1989 calendar year. The first examination is tentatively scheduled for August with a final filing date of approximately June 1, 1989. The second examination is scheduled for October 1989.

There will be a \$100 application fee, a \$200 examination fee and a \$600, 3-year license fee.

To receive licensing information or additional information, contact:

Jasmine Cruz
State Water Resources Control Board
Office of Tank Tester Licensing
P.O. Box 944212
Sacramento, CA 94244-2120
(916) 739-4348. ■

Disciplinary Action, continued from page 3

LICENSES REVOKED

NAME/STYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
Paladin Roofing, Inc.	PO Box 30, Ste. 341, Santee, Ca 92071	490775	12/23/88	7098
Queipo Enterprises Inc. (Lancaster Pools dba)	7525 Auburn Bl, Citrus Heights, CA 95610	463767	12/10/88	7107, 7109, 7113, 7115 (7018.5, 7083, 7167), 7121, 7121.5, 7122.5, 7154, 7161
RB Mechanical	212 Ninth St, Ramona, CA 92065	454036	12/16/88	7107, 7109, 7111.1, 7113, 7115 (7030, 7030.5), 7121, 7123
R C F Construction	11801 Garden Grove Bl, Garden Grove, CA 92643	224164	12/13/88	7108, 7110, 7115 (7159), 7116, 7121
Rays Pool Service	PO Box 495, Salida, CA 95368	408327	10/1/88	7111, 7115 (7018.5, 7167), 7116, 7119, 7121
Rebel Framers	PO Box 489, Dana Point, CA, 92629	363542	12/23/88	7107, 7113, 7121
Redhawk Drilling Co.	13365 Dry Creek Rd, Auburn, CA 95603	347402	10/23/88	7098
Redhawk Drilling Co.	13365 Dry Creek Rd, Auburn, CA 95603	493278	10/23/88	7112
Renovation Services, Inc.	6115 Ralston St, Richmond, CA 94805	443108	12/16/88	7107, 7109, 7113, 7115 (7028), 7116, 7117.5(b), 7121
Rivera Roofing Co.	PO Box 15, Hanford, CA 93230	264486	12/15/88	7099.6, 7121
Roesler Enterprises Inc.	2324 4th St, Santa Rosa, CA 95404	442089	12/15/88	7099.6, 7121.5
Royer Construction	1515 Stephenson, Marysville, CA 95901	321093	11/9/88	7107, 7109, 7110, 7113
S & F Concrete	15005 Cheyenne Rd, Apple Valley, CA 92307	421366	12/10/88	7108, 7120, 7121, 7121.5
Smith, Ronald E.	15243 Starbuck St, Whittier, Ca 90603	282499	12/16/88	7107, 7111, 7113, 7115 (7159), 7117, 7121.5
Teran E B	1745 Cabana Av, West Covina, CA 91790	373968	12/15/88	7099.6, 7107, 7111, 7113, 7115 (7030, 7159), 7116, 7117.6, 7121
Tsoi, Paul Fuk-Shun	349 N. Concourse, Montebello, CA	383760	12/10/88	7107, 7109, 7113, 7119, 7121
U.S. Quality Construction Inc.	PO Box 8417, Van Nuys, CA 91409	385113	10/28/88	7109, 7110, 7111, 7113, 7115 (7159), 7117.5(b), 7121, 7121.5
Ward, Duane Construction Co., Inc.	1443 Flores Dr, Pacifica, CA 94044	487457	10/28/88	7098
Ward, Duane Construction Company	1443 Flores Dr, Pacifica, CA 94044	413134	10/28/88	7107, 7108, 7110, 7113, 7115 (7030, 7159), 7116, 7121
Water Tite Roofs	764 E. California Av, Ontario, CA 91761	233952	11/9/88	7107, 7113, 7121
Western Construction Works Co.	9823 E. Rush St, South El Monte, CA 91733	516159	12/10/88	7098
Westside Roofing	8775 Dyer Rd, Salinas, CA 93907	436024	11/11/88	7098

LICENSES SUSPENDED

NAME/STYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
Angell, Raymond A.	PO Box 163, Canoga Park, CA 91305	234515	11/15/88 (indef.)	7122.5
Angell, Raymond A. and Associates	16721 Sherman Wy, Van Nuys, CA 91406	384230	11/15/88 (indef.)	7099.6, 7121, 7121.5
Cal-Best Roofing Co.	PO Box 671, Mira Loma, CA 91752	190551	11/15/88 (indef.)	7099.6, 7121
Carney, Jerry Contractor	2254 Shaw St, Sacramento, CA 95821	358761	12/15/88 (60 days)	7107, 7109, 7113, 7121.5
Cennaro, Vincent	35491 Del Rey, Capistrano Beach, CA 92624	265911	12/23/88 (indef.)	7109, 7113, 7115 (7018.5, 7159), 7121

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Disciplinary Action, continued from page 4

NAME/STYLE	ADDRESS	LICENSE#	EFFECTIVE DATE	VIOLATION CONTRACTORS LAW
Goff, R.L. Concrete Contractor	5748 A East 2nd St, Long Beach, CA	90803 230736	10/28/88 (indef.)	7097, 7098
Klink, James E.	4615 Rishell Ct. W., Concord, CA	94521 302655	11/4/88 (7 days)	7099.6, 7121
Konociti Marine Construction, Inc.	PO Box 545, Kelseyville, CA	95451 296214	11/10/88 (15 days)	7109, 7113
Owens/Casebeer Mechanical	PO Box 494130, Redding, CA	96049 450387	11/19/88 (7 days)	7099.6, 7121
R&M Builders	PO Box 3685, Long Beach, CA	90803 404655	10/28/88 (30 days)	7109, 7113, 7121, 7121.5
Urban Design Const. Gen. Cont.	3510 Loma Vista, Oakland, CA	94619 476096	11/19/88 (indef.)	7107, 7110, 7113, 7115 (7030, 7159), 7121, 7121.5

Reminder**Contractors License Law requires under Section 7083:**

"All licensees shall notify the registrar in writing within 90 days ... of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in address, personnel, name style, bond exemption pursuant to §7071.9, or exemption to qualify multiple licenses pursuant to §7068.1."



photo by Steve Kolb

Decentralized Testing for Applicants

This photograph characterizes what has been referred to as a CSLB exam "cattle call." Approximately 1,200 candidates took this exam at the Sacramento Community Center in downtown Sacramento early in 1989.

Current budget and administrative limits require the CSLB to administer the exam to large numbers of candidates in each of only two available locations statewide. Examinations have been offered in Pasadena and in Sacramento and have been scheduled during one to three days each month at each site.

This practice has cost many applicants time and

money by requiring them to take the examination a considerable distance from their homes.

By direction of the Contractors Board, staff at CSLB sought permission through the budget process to fund additional testing sites. Computer terminals will be used at the additional sites to administer the examinations. The Governor's Budget for Fiscal Year 1989-90 contains funds to implement computerized testing at selected district offices of the CSLB. The implementation plan calls for the first of these examinations to be administered in June 1990. ■

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In 1980, brown spots began appearing on the pool surface. The spots consisted of tiny thorn-like growths protruding from the gel coat, as well as blisters on the gel coat. By 1983, the spots and blisters covered the entire surface of the pool. An expert witness at the administrative hearing in 1983 testified that the spots and blisters were likely caused by contaminants in the materials used to manufacture the pool, and that the phenomenon was known as "black plague" in the pool industry. He said the remedy would be to sand down and resurface the pool, and estimated the cost of doing so at \$5,000 — about the same amount the Ostros originally paid to Viking under the contract.

The Ostros first notified Viking about the spots and blisters in mid-1981. Viking ignored and then refused to correct the problem, thereby breaching the warranty. In mid-1983, the Ostros complained to the Contractors' State License Board, which filed a disciplinary accusation against Viking. The accusation described the terms of the written contract between the Ostros and Viking, including the warranty clause. It also described the problem which had developed with the Ostros' pool and alleged that it was a condition covered by the warranty. The accusation further averred that Viking had subjected its license to discipline under "section 7107 in that it had abandoned its express written warranty on the Ostros project, without legal excuse, by failing and refusing to correct the defective condition in accordance with the terms and conditions of the warranty."^{2/} A separate allegation was asserted that Viking violated "section 7113 in that it failed in a material respect to complete the Ostros project for the contract price and the owners will be required to spend substantially in excess of the contract price to correct the defective condition and thereby complete the project in accordance with the contract."^{3/}

Following a hearing, an administrative law judge issued a proposed decision finding "clear and convincing evidence beyond a reasonable certainty" to sustain the charges. The judge's proposed decision ordered that Viking's license be revoked, with revocation stayed and probation imposed for three years upon certain conditions including restitution to the Ostros. The registrar of contractors subsequently adopted this decision.

Viking petitioned the superior court for administrative mandate, but the court upon an independent review of the record found that Viking's breach of the express, written warranty violated sections 7107 and 7113, and denied relief. Viking then appealed to the Court of Appeal, which reversed on the ground that the language of sections 7107 and 7113 did not embrace the type of misconduct which Viking was found to have committed. We granted review of the matter because construction of the statute presents an issue of statewide significance. For the reasons set forth below, we conclude the interpretation announced by the Court of Appeal was incorrect.

Our analysis starts from the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent. (People v. Woodhead (1987) 43 Cal.3d 1002; People v. Overstreet (1986) 42 Cal.3d 891.) In determining intent, we look first to the words themselves. (Woodhead, supra, 43 Cal.3d at p. 1007; Overstreet, supra, 42 Cal.3d at p. 895.) If the statutory language is clear and unambiguous, there is no need for construction. (Woodhead,

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supra, 43 Cal.3d at pp. 1007-1008; Overstreet, supra, 42 Cal.3d at p. 895.)

Section 7107 proscribes a contractor from abandoning without legal excuse a "construction project or operation." Similarly, section 7113 prohibits a contractor from materially failing to complete the "construction project or operation" for the price stated in the contract. Viking contends that once it completed physical installation of the pool on August 25, 1977, it could no longer be disciplined under section 7107 for abandonment of, or under section 7113 for material failure to complete, the "construction project or operation." The Attorney General, on behalf of the Contractors' State License Board, argues that the scope of a "construction project or operation" is determined by the contractual agreement between the parties, and that the breach of a contractual warranty is an abandonment of, and material failure to complete, the "construction project or operation."

The touchstone phrase in both sections — "construction project or operation" — is susceptible of only one reasonable interpretation in light of the clear, prophylactic purpose underlying the entire statutory system of which it is a part. (See *People v. Shirokow* (1980) 26 Cal.3d 301, 306-307; *People ex rel. Younger v. Superior Court* (1976) 16 Cal.3d 30, 40, and cases there cited.) Contrary to the narrow view urged by Viking, the statutory scheme compels the conclusion that the phrase "construction project or operation" in sections 7107 and 7113 refers to the construction project or operation as determined by the contract agreed to by the parties.

This court has stated that the purpose of the Contractors' License Law is to protect the public against the perils of contracting with dishonest or incompetent contractors. (*Asdourian v. Araj* (1985) 38 Cal.3d 276, 289; see also *Rushing v. Powell* (1976) 61 Cal.App.3d 597; *Conderback, Inc. v. Standard Oil Co. of Cal.* (1966) 239 Cal.App.2d 664; *Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141.) The Legislature intended that this statute be interpreted broadly in order that contractors could not easily evade the statute's protective purposes. (*Johnson v. Mattox* (1968) 257 Cal.App.2d 714.)

The Court of Appeal in *West Coast etc. Co. v. Contractors' etc. Bd.* (1945) 72 Cal.App.2d 287, 301-302, painstakingly explained the purpose of administrative disciplinary proceedings under the Contractors' License Law: "The object of establishing the Contractors' State License Board and vesting in the registrar of contractors disciplinary powers is for the protection of the public. The law is intended primarily to keep the contracting business clean and wholesome, to the end that it may merit the respect and confidence of the public in general and in particular those who have recourse to contractors in the construction or improvement of their properties. Therefore, the purpose of a disciplinary proceeding such as the one with which we are here concerned is to determine the fitness of a licensed contractor to continue in that capacity. It is not intended for the punishment of the individual contractor, but for the protection of the contracting business as well as the public by removing, in proper cases, either permanently or temporarily, from the conduct of a contractor's business a licensee whose method of doing business indicates a lack of integrity upon his part or a tendency to impose upon those who deal with him..."

In light of the intent and purpose behind the statutory scheme — to protect consumers and the public from dishonest or incompetent contractors — we must afford the statute a reasonable and practical construction in accordance with the intent of the Legislature and the purpose of the statute. (*Shea v. Bd. of Med. Examiners* (1978) 81 Cal.App. 3d 564, 574; *Wilson v. County of Santa Clara* (1977) 68 Cal.App.3d 78.)^{4/} The phrase "construction project or operation" can only be construed to mean the construction project or operation as defined by the contract between the parties. If we were to narrowly construe the phrase "construction project or operation" to mean only an apparent completion of the physical project alone, then, as Viking did here, a contractor could induce a consumer to enter a contract by making an express warranty, ostensibly complete physical construction, and deem the construction project "complete." Thereafter the contractor could ignore his basic contractual obligations to the consumer, including the warranty, and take comfort in the knowledge that he has avoided discipline under sections 7107 and 7113. Such a construction would leave the consumer unprotected against dishonest or incompetent contractors, and would fly in the face of legislative intent and statutory purpose, as well that of common sense.

Our construction is consistent with the Courts of Appeal which have considered this phrase in sections 7107 and 7113. The court in *Bailey-Sperber, Inc. v. Yosemite Insurance Co.* (1976) 64 Cal.App.3d 725, construed the phrase "construction project or operation" in sections 7107 and 7113 to mean that as defined in the contract. The court there held that a contractor's complaint, based on violations of sections 7107 and 7113, adequately stated a cause of action against the subcontractor who "breached said sub-contract by failing to perform any of the covenants and conditions thereof." (64 Cal.App.3d at p. 729, italics in original.) Similarly, in *Mickelson Concrete Co. v. Contractors' State License Bd.* (1979) 95 Cal.App.3d 631, the court broadly construed the phrase "construction project or operation" and held that a contractor's failure to take corrective action to make an ostensibly completed construction project an acceptable one that met trade standards was a violation of section 7113.

Perhaps the most telling and potent evidence of the Legislature's intent, however, is its 1980 amendment to section 7091 of the Contractors' License Law. (Stats. 1980, ch. 865, §1, p. 2699; Stats. 1980, ch. 1210, §2, p. 4090.) Section 7091 sets forth the statute of limitations for bringing disciplinary actions against licensed contractors. The 1980 amendment added the following language to section 7091: "Accusations regarding an alleged breach of an express, written warranty for a period in excess of three years issued by the contractor shall be filed within the duration of that warranty."^{5/} Although section 7091 allows consumers three years to file an accusation against a contractor after the act or omission alleged as the ground for disciplinary action, the 1980 amendment specifically extended the length of time during which a consumer can file an accusation against a contractor for a breach of an express, written warranty. (Review of Selected 1980 California Legislation (1980) 12 Pacific L.J. 235, 277.) The 1980 amendment indicates that the Legislature believed it had already included a breach of an express, written warranty as a ground for discipline in the Contractors' License Law.

The Legislature enacted the 1980 amendment after case law had construed the phrase "construction

project or operation" in the Contractors' License Law to mean that as defined by the contractual agreement between the consumer and the contractor. (*Bailey-Sperber*, supra 64 Cal.App.3d 725; *Mickelson Concrete Co.*, supra, 95 Cal.App.3d 631.) The Legislature is deemed to be aware of existing laws and judicial decisions construing the same statute in effect at the time legislation is enacted, and to have enacted and amended statutes "in the light of such decisions as have a direct bearing upon them." (Overstreet, supra, 42 Cal.3d 891; *Estate of McDill* (1975) 14 Cal.3d 831, 839; *People v. Weidert* (1985) 39 Cal.3d 836, 844-846; *Bailey v. Superior Court* (1977) 19 Cal.3d 970, 977, 978, fn. 10.)

We cannot presume that the Legislature's 1980 amendment of section 7091 was a meaningless and idle gesture. (*Stafford v. Realty Bond Service Corp.* (1952) 39 Cal.2d 797, 805.) Instead, as we have stated, we view the 1980 amendment of section 7091 as powerful evidence that in fact the Legislature believed that it had already included a breach of an express, written warranty as a ground for discipline of contractors in sections 7107 and 7113. Our construction of the language of those sections reflects the Legislature's intent, harmonizes those sections with the entire statutory scheme and its purpose of protecting the public from dishonest or incompetent contractors, and is wholly consistent with the case law.

Therefore, we hold that Viking's breach of an express, written warranty is an abandonment of, and a material failure to complete, a construction project or operation within the meaning of sections 7107 and 7113. Accordingly, we reverse the judgment of the Court of Appeal.

BROUSSARD, J.

WE CONCUR: LUCAS, C.J.; MOSK, J.; PANELLI, J.; EAGLESON, J.; KAUFMAN, J.; *WOODS, J.P.T.

Honorable Arleigh Woods, Presiding Justice, Court of Appeal, Second Appellate District, Division Four, assigned by the Chairperson of the Judicial Council

1/ All further statutory references are to the Business and Professions Code unless otherwise indicated.

2/ Section 7107 provides: "Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor constitutes a cause for disciplinary action."

3/ Section 7113 states: "Failure in a material respect on the part of a licensee to complete any construction project or operation for the price stated in the contract for such construction project or operation or in any modification of such contract constitutes a cause for disciplinary action."

4/ We have explained that the purpose of the Contractors' License Law is to protect consumers and the public who enter into contracts with contractors, and not to punish individuals. If a statute's purpose is not to punish but to accomplish some other legitimate governmental purpose, then the statute is considered nonpenal. (*Trop v. Dulles* (1958) 356 U.S. 86, 96.) Hence, given the statute's purpose, like other statutes that provide for disciplinary action against licensees, the Contractors' License Law is not penal in nature. Since its purpose is nonpenal, the Court of Appeal below erred by applying a narrow construction that it said, "though developed in the criminal context, is applicable in administrative proceedings."

5/ Although section 7091 has recently been amended (Stats. 1987, ch. 1264), the language regarding the breach of an express written warranty remains unchanged. ■

Study Surveys Need for Licensing Interior Designers

As noted in the "Comments from the Chair," by Stephen H. Lazarian, Jr. on page 1 of this issue, the CSLB was mandated last year by Senate Bill 354 (Craven) to conduct a study to determine the need to license interior designers. The report was prepared for the CSLB by the California State University — Real Estate & Land Use Institute (RELUI) under an interagency agreement.

The primary data collection method consisted of in-depth interviews of nearly 100 interior designers, architects, engineers, building officials, and other interested persons in the Sacramento area, San Francisco Bay area, Los Angeles, Orange and San Diego counties.

The "Summary of Findings" from the report are reproduced here.

1. The interior design profession consists of two groups of professionals performing tasks that can be defined as different for each group. For the purpose of this study the groups are defined as interior decorators and interior designers.

2. The work performed by the two groups of interior design professionals involves some aspect of public health, safety, and welfare. However, the involvement and extent of involvement is dependent on the tasks performed by each group.

In general the safety issues include hazards induced by fire and toxics; selection of proper materials for specific groups such as children, and the elderly, ill, and handicapped; design of space, furniture, and finishings; and life safety issues in tenant improvements and interior space development.

In general, welfare issues include the completion of tasks on time to the satisfaction of the client, and within budget.

3. The group defined as interior designers is the most likely to be affected by changes in the architect's practice act. This research found that some of the professionals in this group lost jobs and clients because of their revisions in the act.

4. The results of this research indicate that both groups of interior design professionals defined by this study should be regulated. However, licensing is recommended for interior designers only. Insofar as possible, the licensing procedure should follow the criteria for membership of many of the interior design associations.

5. It is recommended that interior designers be licensed with a procedure legislating the scope of practice. Foundation for Interior Design Education Research (FIDER) accredited baccalaureate degrees, the National Council for Interior Design Qualifications (NCIDQ) Exam, and a three-year apprentice program should be reviewed by an advisory committee made up of interior designers, architects, and engineers for applicability to licensing criteria.

The preferred recommendation is that a design state license board consisting of architects, engineers, land surveyors, landscape architects, interior designers and other design professionals replace the present individual boards. The composition of the board would be proportionate to the number of professionals currently licensed. The existing boards for each profession, e.g. the Board of Architectural Examiners, would fulfill the role of advisory groups for each profession.

It is estimated that there are approximately 3,500 interior designers operating in California and that about 300 graduate each year from educational programs specified by the proposed licensing procedure.

The cost of services offered by this group to the public will increase proportionate to the degree that additional insurance is required.

The cost of licensing interior designers the first year is estimated as \$8.0 million and 85 personnel years. The cost for the second and ongoing years is \$7.7 million and 81 personnel years.

6. Although the notion of combining licensing boards has been introduced before, the process has

complex political and procedural implications. Therefore, this study explored two additional procedures for licensing interior designers and presented them as alternative options to pursue.

The first procedure was to license by the Contractor's State License Board (CSLB). Although this would be the easiest procedurally, this study found that the CSLB had no jurisdiction over the design professional as a whole and interior designers in particular. Furthermore, the act of licensing through the CSLB would do little to solve the problems that have arisen between architects and interior designers.

The second procedure is to license through the Board of Architectural Examiners. Although this would be a rational approach in that the interior designers would be licensed with other design professionals, the two professions would have to resolve jurisdictional problems that they have not been able to solve in the past.

7. It is recommended that the group defined as interior decorators be registered by the Bureau of Home Furnishings. It is also recommended that the registration procedure carried out by the Bureau be expanded to include interior decorators not working on their own account.

The group defined as interior decorators is probably the largest group of interior design professionals but the exact number is unknown.

If this group is registered as proposed, the cost of registering will be covered by fees from the new registrants.

Copies of the study, "A Study to Determine the Need to License Interior Designers," may be obtained directly from the California State University — Real Estate & Land Use Institute located at 580 University Avenue, Suite 101, Sacramento, CA 95825. The cost for each copy is \$14.42, which includes applicable taxes and shipping. ■

Cal/OSHA, continued from page 1



as specified in Section 6500 of the State Labor Code and Section 341 of Title 8 of the California Code of Regulations. These activities include construction of trenches or excavations which are

five feet or deeper and into which a person is required to descend, the construction or demolition of any building, structure, falsework, or scaffolding more than three stories high or the equivalent height, and the underground use of diesel engines in work in mines and tunnels. Effective May 1, compliance personnel will routinely check for valid Cal/OSHA permits during an inspection and take appropriate action if a permit violation is found. Construction permits are issued by district offices of the Division.

Asbestos Registration

The Division's Carcinogen Unit registers employers whose employees engage in asbestos-related work, as defined by law. Effective May 1, Cal/OSHA will enforce the registration requirements contained in Section 6501.5 of the State Labor Code as well as appropriate sections of Title 8 of the California Code of Regulations, for both public and private sector employers. Appropriate state and federal occupational safety and health standards pertaining to potential employee exposure to asbestos in the workplace will be enforced.

Carcinogen Use Reports

The Division will enforce the requirement that each employer who uses any carcinogen, including asbestos and vinyl chloride, file a written report with the Division regarding the use of any such carcinogen or any incident resulting in the release of a potentially hazardous amount of a carcinogen into any area where employees may be exposed. These reports, required by Section 9030 of the State Labor Code of both private and public sector employers, shall be submitted to the Chief of the Division. Complaints regarding unsafe use and/or re-

lease of potentially hazardous amounts of a carcinogen in any workplace should be directed to the local Cal/OSHA office.

Licenses for Explosives Users

District offices of the Division will issue "blasters" licenses to users of explosives, as required by Section 7990 of the State Labor Code. In addition, the Division will enforce the requirement that employers may permit employees or contractors to use explosives at the place of employment only if properly licensed, and must employ only blasters who are properly licensed. Complaints of unsafe storage of explosives in places of employment in the private sector should be directed to a Cal/OSHA district office, effective May 1, 1989.

If you have any questions concerning any of these matters, please contact any local district office of Cal/OSHA or write the Division of Occupational Safety and Health, 525 Golden Gate Avenue, 3rd Floor, San Francisco, CA 94102, telephone (415) 557-1946. ■

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the report on time to the Legislature. A brief discussion of the study findings and recommendations is discussed on page 7 of this issue, "Study Surveys Need for Licensing Interior Designers."

Our Contractors Automated Systems Project (CASP) is making good progress. We expect to have the Automated Phone Response system on line by October of this year, as originally targeted. I know that all of you will appreciate being able to telephone our local offices to get information without getting a busy signal.

We are looking into implementing decentralized testing, allowing various district offices to provide for the testing of applicants on a regular basis in small groups. We will probably initiate a pilot program within the next year or so. We hope that eventually we will be able to eliminate the two massive testing sites in Northern and Southern California (see photograph, page 5), which require many of you to travel long distances to take your exams.

Plastic pocket licenses should be available soon. I know that California contractors will appreciate carrying a license that does not disintegrate after a few months of use.

Our backlog of cases is being reduced at a substantial rate each year. Our "Zero Backlog" campaign at the district office level has been fully implemented to eliminate all backlog by June 1991. When we discuss the complaint backlog, it is important to recall that we have a standing caseload of 5,000 "in the regulatory pipeline" at any time. All cases that exceed the normal 5,000

statewide caseload are considered part of our backlog. Our goal by June of this year is to have the backlogged cases down to 3,000, and it looks like we may exceed our goal.

Our Registrar, Dave Phillips, has initiated a number of procedural changes within the organization that will have a profound and positive effect. We are sure that you will agree with his changes. For example, Mr. Phillips has allowed the deputies to attempt to mediate complaints and resolve disputes, once cases get to their level. Formerly, only Consumer Services Representatives could mediate cases; deputies were required to focus all of their effort on investigating and prosecuting cases without any attempt to mediate them. Deputies may now mediate under certain conditions, so consumers and contractors should benefit.

Senior staff at the Contractors Board, including Mickey Matsumoto, Chief Deputy Registrar; Bob Berrigan, Licensing Deputy; Linda Brooks, Administrative Officer; Shelby Cecchetti, Legislative Liaison; and Steve Kolb, Public Information Officer, have done a superb job in the management of our Board and the hard work by all of those individuals is to be applauded.

The Board is taking an aggressive posture with respect to legislative bills for the current year. The Board is sponsoring an amendment to an existing law that will allow licenses to be renewed up to five years after expiration, rather than the current three-year period. We are also sponsoring a bill that will allow local prosecutors to collect civil penalties assessed — as part of

our administrative citations — against unlicensed contractors. Our arbitration pilot program will be augmented to allow for the Board to pay for an expert witness in an arbitration hearing and possibly to make arbitration mandatory for certain types of cases. The Board is supporting the idea of establishing an unlicensed activity unit to deter activities by unlicensed contractors. We are supporting a bill that would draw a large sum of money (approximately \$1 million) from the Reserve Fund for that purpose.

As this issue goes to press, we are preparing for a meeting of the Board's Strategic Planning Committee, which is composed of all of the chairs of the individual Board committees. That committee will be looking at a long-range plan for the Board over the next few years. Major conceptual issues will be discussed, including the possibility of designating a portion of the Reserve Fund for programs that will benefit contractors, such as continuing education and public awareness. We are also going to consider the possibility of reducing or eliminating some secondary fees, such as the fees for additional licenses.

From the Board and the staff, we can assure you that there is plenty of hard work and effort going into transforming the CSLB into a model agency with quality service. We are becoming more efficient and more productive, and ultimately better able to serve consumers and contractors. I sincerely hope that you are beginning to see the results. We pledge to you the commitment of the Board and the staff in striving for excellence in the performance of our duties.



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