

**HIGHLIGHTS OF
THE CONTRACTORS' STATE LICENSE BOARD
INDUSTRY MEETING AND ENFORCEMENT COMMITTEE MEETING
NORWALK, CALIFORNIA
MARCH 19, 2009**

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The Contractors' State License Board held an Industry Meeting and an Enforcement Committee Meeting on March 19, 2009 in Norwalk, CA.

The following Board Members were present: Chair, Robert Lamb, Louise Kirkbride, and Ed Lang.

Board Members that were absent were: Steve Matich and Bruce Rust.

I. INDUSTRY MEETING

1. The purpose of the Industry Meeting was to update industry representatives and employees from other state agencies – with whom CSLB enforces construction, underground economy, as well as economic and employment enforcement coalition laws – on CSLB enforcement efforts and ways CSLB can partner with others to improve its enforcement efforts.
2. Registrar Steve Sands began the Industry Meeting. David Fogt, Chief of Enforcement explained the CSLB mandates and existing programs, outreach efforts and partnering opportunities.
3. Chris Jenson, Manager of Contract Administration, City of Los Angeles discussed City's prevailing wage law enforcement efforts and invited the attendees to attend the City's free monthly prevailing wage law seminar held on the second Monday of each month at 10:00 a.m. Chris Jenson can be contacted at 213/847-2662 for seminar registration and/or any prevailing wage law questions.
4. Steve Warren, Chief of Compliance Development Operations, EDD discussed the Joint Enforcement Strike Force and the cooperation of various agencies in investigating the underground economy. He also discussed the investigation time frames, including the turn-around time for on-site business inspections and audits.
5. Allen Smith, representing the National Plasters Council discussed the National Plasters Council's cooperative efforts with EDD and CSLB in organizing sting operations targets underground subtrades in the pool industry and also shared statistics from the State of California regarding lost revenues because of the underground economy. Mr. Smith explained that legitimate, licensed pool

contractors are going out of business because they can no longer compete with unlicensed, and/or cash-paying pool contractors.

6. Consultant Ben Frank moderated questions, comments, suggestions and recommendations from the audience. Recommendations included loosening the independent contractor laws, investigating contractors who submit public work project bids which are outrageously lower than the engineer's estimate, and tracking HVAC equipments sold through manufacturers to prevent contractors from evading required permits and compliance with Title 24 requirements. `

II. ENFORCEMENT COMMITTEE

1. Service and Repair Taskforce Update

Various members of the Attorney General's office and CSLB staff were recognized and thanked for their tireless efforts in bringing the Service and Repair contractor to justice.

Supervising Deputy Attorney General Marc Greenbaum, lead attorney of the Service and Repair Task Force briefed the board on the settlement Attorney General Jerry Brown reached with defendants on Monday, March 9, 2009 in San Diego Superior Court. The settlement provides for:

- a. A permanent injunction against the defendants' prior, illegal activities
 - i. CSLB will monitor defendants' operations for one year
 - ii. Service technicians must register with CSLB & undergo criminal background check
 - iii. Defendants must limit number of names & licenses used
 - iv. Defendants prevented from charging fees that have nothing to do with actual work performed
 - v. Defendants must disclose to CSLB names of directors, officers & employees
 - vi. Defendants must track consumer complaints, properly investigate and make reasonable effort to resolve them
- b. \$3 million in penalties and restitutions to be paid:
 - i. \$1.3 million to be used to provide restitution for consumers
 - ii. \$450,000 assessed in penalties for violations of the Business and Professions Code
 - iii. Remainder to reimburse CSLB for investigative and legal costs

2. Presentation on Enforcement Division Analysis

Consultant Ben Frank dba Benjamin Frank, LLC was introduced as an outside consultant who began in assessment of the Case Management and Enforcement programs in July 2008. Mr. Frank's work initially focused on an in-depth assessment of the Case Management program, and then he completed a general diagnostic review of the SWIFT program and facilitated a team of Enforcement Program managers and supervisors in developing an Improvement Plan for the Intake/Mediation and Investigation Centers.

- a. Case Management Program
Recommendations for improving the Case Management Program include:
- i. Consolidating non-licensee and licensee citation processing in the Norwalk office
 - ii. Consolidating the processing of accusations and appeals of license denials in Sacramento office
 - iii. Streamlining & simplifying citation, accusation & SOI processing procedures
 - iv. Updating duty statements of Case Management program staff.

Mr. Frank has developed preliminary Guidelines and Procedures Manuals for the Case Management program's major business processes and draft duty statements for the program staff. The restructuring and reengineering of the Case Management program's business processes will enable implementation of uniform processes throughout the state, improve effectiveness & efficiency, strengthen workforce capabilities & competencies. The Board is reviewing and finalizing the proposed new procedures and duty statements.

- b. SWIFT Program
Mr. Frank has submitted a report documenting diagnostic review of the SWIFT program and the results show that there is a significant variability between the Northern & Southern regions in the way stings and sweeps are planned, scheduled & conducted. Recommendations include:
- i. Developing & documenting policies & guidelines governing stings & sweeps
 - ii. Establishing a centralized Lead Intake and Dispatch Center within Northern SWIFT to receive, log & screen leads, & determine whether leads need filed investigation
 - iii. Re-establish a Special Investigations Unit in Northern & southern SWIFT offices to handle leads referred for investigation by Lead Intake and Dispatch Center
 - iv. Adopt a structure Workload, Workforce & Performance Management Process

The proposed changes could significantly increase the time SWIFT staff spend conducting stings & sweeps. The board is currently reviewing the draft final report.

- c. Intake/ Mediation and Investigation Centers
Mr. Frank is summarizing results of facilitated sessions with Intake/Mediation & Investigation Center managers & supervisors. The proposed Improvement Plan is expected to include recommendations for improving the processes used for (1) recruiting and selecting new Enforcement Representatives, (2) organizing case file documents, (3) preparing licensee citations, and (4) performing ongoing quality assurance reviews for legal and non-legal case files.

3. Enforcement Program Update

David Fogt, Chief of Enforcement, reported that in February 2009, the Intake/Mediation Center obtained \$472,114 in restitution for California consumers. He emphasized that the goal of the Intake/Mediation Center is early intervention and resolution of disputes within 60 days.

Investigative Center Highlights:

David Fogt reported that they are seeing more cases where contractors are front-loading contracts and requiring excessive down payments, or receiving payment exceeding the value of the work performed

Case Management Highlights:

From July 2008 through February 2009, Enforcement continued to realize cost savings in Attorney General and office of Administrative Hearing costs through the use of mandatory settlement conferences. During this fiscal year, Enforcement has been able to resolve, by settlement, default, or withdrawal, 219 legal action citations saving over \$1,073,000 in Attorney General costs.

Enforcement Staffing:

Staff continues to be proactive in advertising and recruiting for the 13 vacant positions in the Enforcement Division. Vacancies exist for positions for the Sacramento, Norwalk, Fresno and Central Valley offices.

Complaint Handling Statistics:

The pending caseload has increased from June 2007 to March 2008, however, in February 2009, the pending workload was reduced to a manageable level. The Intake and Mediation Centers currently have 1,566 pending complaints. Statewide, the number of complains aged over 270 days is 210 which is over the Board's established goal. This is attributed, in part, to the Governor's Executive Order requiring Board offices to close on alternative Fridays. The Board will meet to come up with a plan to get this under control.

Enforcement Actions:

For the Fiscal Year 2007/2008, Enforcement has issued the following:

Licensee citations	627
Non licensee citations	1560
Applications Referred for Statement of Issues	105
Licensee Complaints Referred for Accusation	305
Licensee Complaints Referred for Criminal Filing	330
Non Licensee Complaints Referred for Criminal Filing	1623
Licensee Revocations	589
License Suspensions	500
Cost of recovery ordered	\$1,012,161
Cost recovery paid	\$191,124

4. Proactive Enforcement Update

In February, Northern and Southern SWIFT teams conducted three stings and four sweeps resulting in many citations, warning letters and civil penalty assessments and felony arrests of eight unlicensed operators caught contracting without a license in a wildfire disaster zone. The SWIFT team conducted its formal Economic and Employment Enforcement Coalition sweep operation for 2009 which included a two-day Coalition partner sweep in Southern and Northern California. On February 10 and 11, the operation focused on construction sites in the San Bernardino and Los Angeles county communities of Rancho Cucamonga, Chino/Chino Hills, Montclair, Ontario, Upland, Diamond Bar, San Dimas and Claremont and resulted in over 80 visits. Northern SWIFT EEEEC conducted concurrent sweeps in Yolo County cities of Davis and Dixon.

Seven unlicensed contractors were arrested, booked and charged with felonies for contracting without licenses in a declared disaster areas due to SWIFT wildfire response sting in Santa Barbara on February 4, 2009.

Enforcement staff has been very busy and very productive. This is a very shorthand review of the great amount of work done by the Enforcement staff.

5. Strategic Plan Update

The goal for the Enforcement unit is to reduce, eliminate, or prevent unlicensed activity and unprofessional conduct that pose a threat to public health, safety, and welfare. Enforcement staff continues to focus on the list of priorities developed previously and has increased proactive enforcement. Enforcement staff continue to work with Mr. Frank in achieving the previously identified goals.

The CSLB special counsel is actively negotiating with partner agencies to develop new MOU, revise existing MOUs and to develop standardized complaint reporting and feedback templates. New or revised MOUs were executed with EDD, DOSH, DOT (Caltrans) DIR.

Attorney Milene C. Apanian has been practicing construction law for over 12 years and is a frequent speaker at industry functions. She publishes CaLienLawUpdate.com, a Do-It-Yourself Guide For Solving the CA Lien Law Puzzle.

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