



The California

# Contractor

News for the Western Regional Master Builders Association

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Fighting workers' comp fraud in the workplace

Web Corner: E-file your taxes this year

2008 Contractors License Law & Reference book now available

... and more

## Great rates for 2008!

As you probably know, your association, Western Regional Master Builders Association (W.R.M.B.A.), is no longer working with the State Compensation Insurance Fund. We have partnered with Heffernan Insurance Brokers to bring our members a new workers' compensation insurance program with **AMAZING** rates.

Check out the 2008 base rates comparison below and make sure to get a quote for your company A.S.A.P.!!!

Workers' Comp Class Code	New Heffernan 2008 base rate*	Compare	SCIF 2008 base rate	Class Code Description
5645	\$20.16	vs.	\$31.95	Construction- N.O.C.
5482	\$5.18	vs.	\$8.00	Painting or Decoration- Over \$23
5474	\$11.06	vs.	\$17.08	Painting or Decoration- Under \$23
5606	\$1.92	vs.	\$2.96	Construction Executive Supervisor
5213	\$7.71	vs.	\$11.89	Concrete Construction
5205	\$5.30	vs.	\$8.19	Concrete or Cement work
5140	\$3.87	vs.	\$5.98	Electrical work- Over \$27
5190	\$5.17	vs.	\$7.98	Electrical work- Under \$27
5183	\$7.78	vs.	\$12.03	Plumbing- Over \$24
5187	\$4.40	vs.	\$6.80	Plumbing- Under \$24
5447	\$5.15	vs.	\$7.95	Drywall/ Wallboard Application- Over \$25
5446	\$9.50	vs.	\$14.59	Drywall/ Wallboard Application- Under \$25
5348	\$5.54	vs.	\$8.54	Tile or Stone Work
5028	\$7.30	vs.	\$11.31	Masonry- Over \$23
5027	\$10.50	vs.	\$16.21	Masonry- Under \$23

\* All 2008 rates are the filed base rates and do not include any individually earned merits or credits. Actual rates may be lower.

Our new workers' compensation program through Heffernan Insurance Brokers offers a substantial savings over the State Fund rates. To participate in this new program, be sure to get your quote today!!!

Call Heffernan Insurance Brokers at: (866) 500-6359 and let them know you are a member of Western Regional Master Builders Association. If you currently use a broker for your insurance needs, you may have your broker call Tangram Insurance to get the same program and rates, at (800) 676-2213 ext. 662 and speak to Riley Binford.

Don't miss out on these savings! Call today for a quote!!!



HEFFERNAN INSURANCE BROKERS

A Member of the Heffernan Group

(866) 500-6359

Please visit your association at its new website:



www.wrmba.com

## Illegal operators rounded up in Rancho Cordova sting by Contractors State License Board

Local man could face felony charges for contracting in emergency zone

A man suspected of ripping off day laborers, and a contractor with a suspended license, who was the target of financial abuse complaints, were among those nabbed by the Contractors State License Board (CSLB) in a sting operation on Wednesday. Members of CSLB's Statewide Investigative Fraud Team (SWIFT) posed as homeowners during the day-long operation at a storm damaged condominium. They worked closely with the Rancho Cordova Building Department and the Rancho Cordova Police Department

to go after blatant abusers.

The SWIFT team received bids from the suspects on projects at the sting house that included landscaping, painting, concrete and fencing. When the bids went over \$500 on a job, the men were cited. California law requires a state contractor's license for home improvement jobs that are valued at \$500 or more in supplies and labor.

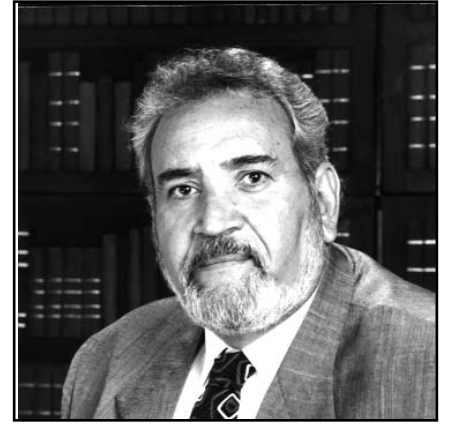
"The suspects who get caught in the Board's sting operations usually have other legal problems," said CSLB Registrar Steve Sands. "Homeowners are taking big risks when they use unlicensed people for work on

Please see STING, page 3

# LAW TALK



By Sam Abdulaziz  
Abdulaziz, Grossbart & Rudman



## The right to attorney's fees

Typically, in order to collect attorneys fees after being successful in litigation, attorneys fees must be in the agreement between the parties. However, there are some laws that allow for attorneys fees. In this case, the Court allowed attorneys fees to a third party.

A homeowner sued a subcontractor, as a third party beneficiary for breach of contract over custom cabinetry that the subcontractor failed to bid and install in the owners home. In this case, the owner was suing someone with whom he did not have a contract that allowed for attorneys fees. There was a contract that allowed for attorneys fees but that was between the homeowner

and the prime contractor, rather than the homeowner and the subcontractor.

Clearly, an owner can sue a subcontractor for negligence, arguing that the subcontractor did not do the work in accordance with accepted trade standards or the plans and specifications. However, that cause of action would not allow for attorneys fees. In this case, there was an attorney's fees agreement between the owner and the prime contractor but not with the subcontractor.

The Court allowed attorneys fees to the owner using the argument that he was a third party beneficiary under the contract. Among other things, the court stated that it was

expressly made for his benefit and the agreement reflected that. He was clearly a party and the contract was made for his benefit because it expressly named him in the reference line and the cabinets were being built for his home. The owner understood who the subcontractor was going to be. Further, on a couple of occasions, the owner paid the subcontractor directly.

Based on this set of facts, the court concluded that the owner was a third party beneficiary to the contract and was therefore entitled to the rights under the contract including attorney's fees.

This is a rare case and situation. One should not bank on being able to

recover attorneys fees from a non party who is not a third party beneficiary.

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

*documents are of a general nature and are intended to highlight areas of the subject matter and should not be used as a substitute for specific legal advice. You should seek the aid and advice of a competent attorney and/or accountant instead of relying on the presentation and/or documents. Sam Abdulaziz can be reached at Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458; (818) 760-2000, Facsimile (818) 760-3908; or by E-Mail at info@agrlaw.net .*

*On the Internet, visit our Website at www.agrlaw.net*

*Cite as: Loduca v. Polyzos, C.A. 3rd, No. C050757, July 16, 2007. 2007 DJDAR 10877*

### Now Available to All Members: FREE Discount Coupons!

Call the Association office to request these coupons for you and your employees!!!



Los Angeles Zoo



Sea World San Diego

Six Flags Magic Mountain



Knott's Berry Farm



Coupons include discounted admission and more ...



Aquarium of the Pacific



San Diego Zoo and Wild Animal Park

Universal Studios



Call the Association office at (800) 823-4038!!!

# SAFETY ... IT PAYS



## Fight workers' comp fraud in the workplace

According to OSHA, companies that treat their workers fairly and with concern have the fewest job injuries and fraudulent WC (workers' compensation) claims.

As a supervisor, here are the Top 10 proactive things you can do to fight WC fraud in the workplace.

**Educate your employees.** Employees should understand both their rights concerning legitimate WC claims and the penalties for fraudulent ones. Hold a safety meeting on the topic, and use posters, flyers and payroll stuffers to advance your fraud message. And don't be afraid to promote your tough stance against fraud by informing employees that all suspicious claims will be investigated and prosecuted.

**Maintain a safe work environment.** Initiate a formal Safety or Injury Prevention Program to minimize safety hazards.

**Implement a Return to Work program.** Experience shows that injured workers recover faster when they

return to work. Returning to regular work usually occurs more quickly when transitional or modified duty is offered to the injured employee.

**Keep in touch.** Employees who feel valued are less likely to cheat the system. Keep in touch with an injured employee and make it clear you're looking forward to having them back at work as soon as they have their doctor's approval.

**Partner with a reputable medical provider.** Partner with a reputable medical clinic to serve as your company's primary provider to ensure workplace injuries are treated by a trustworthy physician.

**Establish reporting procedures.** Employees and supervisors should be familiar with reporting procedures, and keep accident forms on hand. Also, stress the importance of reporting injuries promptly.

**Investigate immediately.** If an accident occurs, investigate the accident while memories are still fresh. Separately talk to each witness and co-worker about the injury. Be sure to relay any suspicions about the incident to your claims

adjuster.

**Conduct exit interviews.** You should document the work-related activities of employees who are about to be laid off or fired. Conduct exit interviews that include questions about the employee's physical condition and any on-the-job accidents or injuries that have not been reported. This may help to deter fraudulent claims or refute future false claims.

**Be cautious.** Fraud is a serious accusation that if not handled prop-

erly could put you in the middle of a lawsuit for libel or slander. Give your company the added protection by working with your claims carrier to validate your suspicions, and to determine if the incident should be reported to the appropriate authorities.

**Be honest.** Honesty works both ways. Don't knowingly provide false or misleading information with regard to entitlement to WC benefits in order to discourage an injured worker from pursuing a claim.



## SAFETY CORNER

Cal/OSHA Safety Publications

Please visit the following address on the web to download helpful safety posters, guides and pamphlets for a safer workplace.

<http://www.dir.ca.gov/dosh/PubOrder.asp>

## Sting: Those who received citations are scheduled for court on March 26

Continued from page 1

their property. This latest operation emphasizes the fact that it pays to be cautious about who you hire."

Investigators received tips that Michael Villa, a suspended contractor was financially abusing homeowners in Rancho Cordova. He bid on a storm damaged roof, in a declared State of Emergency zone, which made him eligible for felony charges under state law. He also got a \$5,000 administrative citation. Another suspect, Elver Chili Martin, has been under investigation for months. He would allegedly pick up day laborers, and work them for as many as 12 to 14 hour days without pay. He was booked for not having proper identification, had his car towed, and could face additional legal problems along with civil penalties of \$15,000.

The remaining suspects bid on regular home improvement projects and were charged with contracting without a license and illegal advertising. These are usually misdemeanor charges and carry a potential sentence of up to six months in jail

and/or a \$500 fine. The penalties go up with each conviction.

"We take a proactive approach to improve the safety and security of our residents in Rancho Cordova. That's why we were so pleased to cooperate so closely with the CSLB to apprehend unsavory workers," said Tom Trimmerger, Chief Building Official for Rancho Cordova. "We will continue to work with the CSLB to ensure that these illegal business practices are actively discouraged in Rancho Cordova."

Unlicensed operators are part of a multi-billion dollar underground economy that takes jobs away from legitimate contractors, and tax dollars from schools, roads and law enforcement. Illegal operators rarely have workers' compensation or liability insurance. Homeowners have little recourse if something goes wrong with an unlicensed operator.

The people who were issued citations are scheduled to appear in Sacramento County Superior Court on March 26.

### Unlicensed Suspects

NAME	AGE	CITY OF RESIDENCE	VIOLATIONS
Elver Chili Martin	30	Sacramento	7028, 7027.1, 7125.2d
Viengphone Jack Sidovang	34	Modesto	7028, 7017.1
Michael Villa	37	Rancho Cordova	7028, 7028.16, 7027.3
Booked			
Chris Alexander	51	Fair Oaks	7028, 7027.1
German Fernando Chile Gomez		Sacramento	7028.
Gerald Everts Meacle, Jr.	47	Sacramento	7028
Sami S. Kotkavaara	31	Citrus Heights	7028
Martin Andrew Isborn	43	Carmichael	7028
Toan Nguyen	52	Sacramento	7028.7, 7027.1
Victoriano Ponce Garcia	36	North Highlands	7028, 7027.1
Erik Stephen Jorrick	40	West Sacramento	7028, 7027.1
William West	60	Shingle Springs	7028, 7027.1
Jamie Simpson	44	Sacramento	7028, 7027.1
Elver Danilo Chili Martin	30	Sacramento	7028, 7027.1, 7125d
Mel Anthony Hall	37	Fair Oaks	7028, 7027.1
Jake Christopher Wills	35	Sacramento	7027.1, 7028
Micahel Aitkens			
A+ Construction Handyman	48	Sacramento	7027.1, 7028
Arthur St. Jean	43	Sacramento	7028, 7027.1
Labor Code 3700.5			
Business & Profession Code Violations:			
7028 - Acting in the capacity of a contractor without a license			
7027.1 - Illegal advertising			
7028.7 - Citation for unlicensed activity			
7125d - Lack of workers compensation insurance			
7153 - Selling without registration			
7028.16 - Unlicensed activity in declared emergency or disaster zone			
7027.3 - Illegal use of suspended license			

## Some 2008 calendars still available! Hurry...

We have some 2008 WRMBA calendars still available. They can be purchased for \$10 each. Please make checks payable to WRMBA and send them to:

**Western Regional Master Builders Association (WRMBA)**  
301 E. Ocean Blvd., Suite 1970  
Long Beach, CA 90802

## Hundreds of new laws take effect

Overall, 2007 wasn't a landmark year for passing new laws, as the Legislature fought over health care and a multibillion-dollar deficit. But there are a few new laws going into effect that will protect us from others as well as ourselves.

**SB 33** forbids smoking in a motor vehicle containing a minor under the age of 18, but the traffic stop has to be made for another offense.

**SB 362** says that no one may coerce, compel or require anyone else, such as an employee, to be surgically implanted with a rice-grain sized radio-frequency unit to track their whereabouts.

**SB 1613** goes into effect July 1, 2008 and forbids drivers from talking on the phone while driving unless they use a hands-free system.

**AB 118** will temporarily raise fees for vehicle registration and smog abatement to fund the development of alternative fuel-vehicle technologies.

**AB 233** increases the fine for idling a commercial diesel vehicle for more than five minutes (certain exceptions apply) to \$300.

**AB 392** requires employers with 25 or more employees to allow up to 10 days off, without pay, to spouses of combatants who are on leave from military deployment.

**AB 478** requires cyclists to use lights when riding anywhere after dark, including bikeways, sidewalks, or highways.

**AB 632** says health care facilities may not retaliate against doctors or anyone else who complain to government agencies about unsafe patient conditions in healthcare facilities.

**AB 808** requires anyone renewing or applying for a driver's license to sign a declaration acknowledging that they may be charged with murder if anyone is killed as a result of their driving under the influence.

**AB 1291** allows courts to order parents of gang members to attend parenting classes.

**AB 1735** forbids the sale of raw milk, which has more than ten coliform bacteria per milliliter.

## Web Corner

*The Internet is a growing resource for the construction industry. Web Corner is a place for you to share websites that have helped you in your business life. Please send recommendations to greleht@aol.com for inclusion in the column.*



### e-file: A smart way to do your taxes

Every year, more taxpayers discover the benefits of filing their tax return electronically. Whether you use a professional tax preparer authorized by the IRS or do it yourself from a home computer, there are many reasons to consider e-filing your tax return this year.

**Fast.** No more last minute trips to the Post Office – with e-file, just hit Send

**Accurate.** e-file checks for errors and necessary information, increasing the accuracy of your return and reducing the need for correspondence with the IRS to clarify errors or omissions.

**Easy.** e-file leads you step-by-step. You can usually file a state tax return at the same time you electronically file your federal return.

**Quicker Refunds.** Generally, when you use e-file, your refund will be issued in about half the time it would take if you filed a paper return. Those who choose Direct Deposit will get their refund in even less time.

**Peace of mind.** With e-file, once the return is accepted for processing, the taxpayer is notified electronically, acknowledging the IRS received the return.

**Payment options.** With e-file, you can file your return early but wait to pay any balance due by the April deadline. You can also pay electronically, using a credit card, electronic funds withdrawal or, in some cases, the Electronic Federal Tax Payment System.

The IRS is again offering eligible taxpayers the opportunity to electronically prepare and file their tax returns for free through Free File, a program offered in partnership between the IRS and private-sector software companies. For information on taxpayer eligibility, access the Free File Web page at IRS.gov. For more information on e-file, check the IRS Web site at www.irs.gov/efile.

Remember that for the genuine IRS Web site be sure to use .gov. Don't be confused by internet sites that end in .com, .net, .org or other designations instead of .gov. The address of the official IRS governmental Web site is www.irs.gov.

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## 2008 Contractor License Law & Reference Book now available

This year's issue of the annual Contractors State License Board (CSLB) California Contractors License Law & Reference Book is now available for purchase or for online viewing. The publication includes easy reference to new laws that became effective January 1, 2008, in the "Summary of Major Changes to Contractor Law" section at the beginning of the book.

The License Law & Reference Book's all-in-one format continues to provide CSLB's history and mission, and specialized sections about becoming a licensed contractor; home improvement; business management; construction standards and safety regulations; the California Department of Consumer Affairs; and complete license law, rules and regulations, and related laws.

"It's a challenge for California's licensed contractors to keep up with continual changes in state contracting laws," said CSLB Registrar Steve Sands. "This book is designed as a quick-reference tool to help our state's 314,000 licensees meet that challenge."

Once again, this year's book comes complete with a Windows®-based CD. Price of the 2008 edition is \$17, plus \$5.35 for shipping and handling.

To order, call Matthew Bender & Company at 1-800-533-1637 or fax 518-462-3788; write to: Matthew Bender & Company, Attn: Customer Service, 1275 Broadway, Albany, NY 12204-2694 with a check or money order made payable to Matthew Bender & Company, Inc. and include the recipient's name and street address; or order through the Internet Website at <http://www.lexisnexis.com>.

Contents of the 2008 License Law & Reference Book is also available for viewing in the Library section of the CSLB Website at: <http://www.cslb.ca.gov>.

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