



The California

Contractor

News for the Western Regional Master Builders Association

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At a Glance

Law Talk: More on arbitration of employment disputes

Use and dispose of fluorescent lighting safely

Cuts and abrasions: It's good to sweat the small stuff

... and more

Unlicensed operators targeted in simultaneous seven-city blitz 175 arrested in undercover CSLB sting

The Contractors State License Board (CSLB) has completed simultaneous undercover sting operations in seven cities around the state. The stings were conducted by CSLB's Statewide Investigative Fraud Team (SWIFT) over a two-day period (March 12-13). 175 people were arrested. Most will face misdemeanor charges or contracting without a license. 11 were taken to jail; five of them had arrest warrants. Others caught included an unregistered sex offender, a city worker who gave a bid during his lunch break, a man with a fake Social Security card, and another with a fake driver's license. Three licensed contractors face possible administrative penalties for aiding and abetting unlicensed activity, in one instance allegedly "renting" his license to two men for \$15,000 each.

SWIFT members posed as homeowners and invited suspected unlicensed operators to a sting location to bid on various construction jobs ranging from landscaping, fences and masonry to concrete, tile and painting. The purpose of these operations is to draw attention to the dangers to consumers who hire these phony contractors, to educate unlicensed workers about California laws, and to encourage those who qualify to get their contractors' license.

The sting operations were conducted in El Dorado, Napa, Los Angeles, Orange, San Bernardino and San Diego and Tulare Counties. Joining the CSLB were various local law enforcement officials, the Fraud Division of the California Department of Insurance and the Department of Toxic Substances.

The people who showed up and bid more than \$500 on contracting jobs were arrested and given "Notices to Appear" (NTA) before a Superior Court judge in about one month to answer to misdemeanor charges of contracting without a license and in many cases for illegal advertising as well. The charges carry a maximum of six months in jail or a \$1,000 fine for the first offense. A second violation carries a mandatory 90-day jail sentence.

By law, all contractors who perform work that totals \$500 or more (labor and materials) must be licensed by the CSLB. In addition, applicants undergo a background check and fingerprinting. "Many homeowners don't realize the risk they take when they hire someone who is not licensed to do work in their home," said CSLB Registrar Steve Sands. "What seems like a good deal almost always ends up costing a lot more. Many of these phony contractors are people you really don't want

inside your house or around your children."

Because unlicensed operators don't carry workers compensation insurance, they often submit lower bids on jobs. But, if one of their workers is injured on the job, the homeowner could be liable. Plus, if a deal goes bad with an unlicensed contractor, the homeowner has very few options.

Sting details of note from various locations:

American Canyon – Unlicensed operator who lives down the street from sting site sees people bidding for jobs and asks if he can give a bid too.

American Canyon – One laborer who accompanied an unlicensed operator had marijuana.

Placerville – Guy set up for Day 2 of sting so anxious to give a bid, he showed up at end of Day 1.

Van Nuys – Unlicensed operator took a customer with him to buy materials, stopped with him to give a bid at sting house.

Visalia – Unlicensed operator who was distributing flyers for a licensed contractor stops at sting house and asks if he can give a bid.

A good construction windscreen makes for a better job site

As outdoor construction season begins to heat up, windscreen manufacturer Larry Brown reminds project managers that correctly installed windscreens maximize construction site productivity and profitability.

Recently in downtown Chicago a towering new Trump high rise broke ground. Little noticed but an important part of the job site was the fence windscreen the general contractor installed. The fence screening not only put the site in municipal code compliance, it made for a cleaner job site with less distractions in one of the city's busiest neighborhoods. Additionally, the general contractor received thousands of dollars of free publicity with a custom logo printed on the screening.

Midwest Cover, a national manufacturer of windscreen products, helped the building's contractor

maximize their investment in mandatory construction screening.

"A good windscreen install makes for a better job site," says Midwest Cover president, Larry Brown. "There are less distractions to workers. It makes for a physically cleaner site. Don't forget customized logos on screening will have an impact on the job site bottom line."

Brown says picking the right type fence screen material is the first step in making windscreen a profitable part of the construction project.

"Calculate the length of the project and pick your fence screen material accordingly," says Brown. A good manufacturer will have different degrees of opacity and lifespan depending on job duration.

Proper installation is also critical to making windscreen a profitable part of the job. Brown says that

Please visit your association, Western Regional Master Builders Association, at its new website: www.wrmba.com

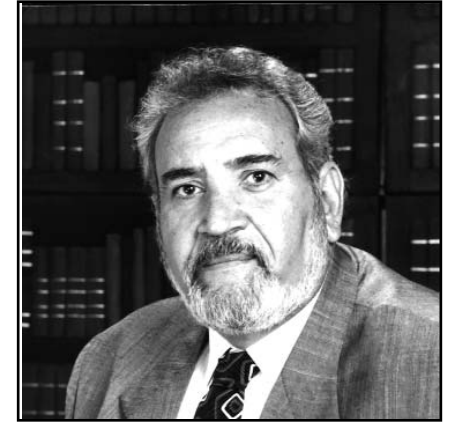


Please see WINDSCREEN, page 4

LAW TALK



By Sam Abdulaziz
Abdulaziz, Grossbart & Rudman



More on employment arbitration

Although this is not a new case it is significant and of interest.

The California Court of Appeal, Second District held that an arbitration provision in an employee handbook was severable from all of the other rights and policies included in the handbook and therefore there was no agreement to arbitrate.

An employee was employed for approximately eighteen years when she was fired. She then filed suit against the employer for various rights dealing with wrongful termination and violations of public policy, etc. The employer filed a motion to dismiss the complaint and compel arbitration. This was all based on the employee handbook.

The handbook was divided into nine sections headed by roman numerals. Section number VIII was titled "Mutual Agreement to Arbitrate Claims." It had an agreement to arbitrate controversies arising out of, or relating to, or associated with the employee's employment

The right to arbitrate comes from a contract. The court reiterated that there has to be a written agreement to arbitrate a controversy in order for the court to compel arbitration.

with the company or the termination. The final page of section VIII contains lines for dates and signatures of the employee and the employer. This was neither signed nor dated. After section IX, which is entitled "Arbitration Procedure," there was another page with an unnumbered heading titled "Employee

Acknowledgement." It has an acknowledgement of receipt of a copy of the handbook and the agreement to abide by the policies, rules, benefits, and procedures. This was signed.

The employer relied on the employee acknowledgement to show that there was a binding arbitration agreement. The court held otherwise.

The right to arbitrate comes from a contract. The court reiterated that there has to be a written agreement to arbitrate a controversy in order for the court to compel arbitration. The court found that there were two separate agreements in the employee handbook. One was the agreement to arbitrate, which was the subject of Section VIII. The other is the agreement to be bound by the "benefits, policies, rules, and procedures" contained within the remaining sections of the handbook. It appeared that the reasoning that there were two agreements was based on the fact that the mutual agreement to arbitrate indicated that it was intended to be a complete stand alone

agreement. It was entitled "Sole and Entire Agreement." It also stated that "This is the complete agreement of the parties on the subject of Arbitration of Disputes." Further, it appears that it was important that the final page of section VIII, which dealt with arbitration, was not signed.

Generally, in order to force arbitration, the parties must somehow agree to arbitration in writing. Typically, it is part of the written contract. In this case the arbitration agreement was severable (could be separated) from the balance of the contract. Otherwise, the agreement can be done by way of an agreement to arbitrate after a controversy has arisen. This is typically called a "Submission to Arbitrate," which is signed by all of the parties. In this case there was no signed agreement to arbitrate.

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

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GreenPlumbers partners with American Standard

American Standard has become the first founding partner of the innovative GreenPlumbers training and accreditation program.

GreenPlumbers offers training workshops and accreditation to plumbers and contractors throughout the U.S., with more than 200 California participants and upcoming workshops in Connecticut, Kansas, Wisconsin and Texas. The program offers five workshops on climate care, water care, water recycling and conservation, and solar water heating. The goal for GreenPlumbers is to make this training free and available to all plumbers across the nation.

As its first founding partner, American Standard will work with GreenPlumbers to meet its goal. A limited number of founding partnerships are available to companies who meet the GreenPlumbers criteria of high quality and conservation awareness.

"The green movement represents a significant opportunity for businesses to contribute to the welfare of our environment. Water conservation is an important issue to communities and consumers and an issue that plumbers should make part of their business and professional development. Green Plumbers is an excellent vehicle to help plumbers become more familiar with green issues and solutions available to them," said Don Devine, president and chief executive officer of American Standard, Americas. "American Standard was first to tell the world that the plumber protects the health of the nation, and now we're proud to be a founding partner to help plumbers protect the health of the earth."

The GreenPlumbers program is open to all recognized plumbers and contractors. For more information, visit greenplumbersusa.com.



SAFETY MATTERS



Don't neglect the small stuff

Infection is often called 'blood poisoning'. It might be of interest to know exactly what

is meant by 'Blood Poisoning'. The term itself indicates that it is a poisoning directly related to blood.



There are two ways in which a poison can attack our bodies. It may be taken in through the mouth and enter the body by way of the digestive organs, or it may enter directly into the blood stream through an abrasion or cut in the skin. In any event, every poison eventually works through the blood and the poison of infections works into the blood stream directly.

The smallest cut, abrasion or scratch is large enough for germs to enter. If they are not washed off they will cause an infection



OSHA 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>

which could lead to blood poisoning. If left untreated, a hand or arm could become so infected that it might possibly have to be

amputated.

Should you find yourself with a small scratch or cut, be sure to get it washed out and properly covered with a clean bandage. 'An ounce of prevention is worth a pound of cure'. Use an antiseptic wash, and be sure to wash the injury for at least 20 seconds. It may be helpful to follow up with an antibiotic ointment or cream.

Serious cuts and lacerations need to be treated by professional medical personnel.

Most often you'll run up against smaller injuries - burns, nicks, scratches and cuts. The danger here is that most workers don't bother to get first aid for these minor injuries. The bottom line is - **DON'T NEGLECT CUTS.** Do your part by trying to prevent them from happening in the first place, but when any injury occurs - serious or minor - be sure that it receives the right kind of treatment, as quickly as possible.

Make sure workers understand the importance of keeping tetanus vaccinations up to date. The CDC recommends a tetanus booster every 10 years for adults. Small cuts and punctures can allow tetanus to enter the body. Soil and dirty or rusted metal can harbor tetanus.

First aid kits must be checked frequently to be sure they are clean and fully stocked. This applies to your home and car or boat as well as on the job.

KEEP MINOR INJURIES MINOR! FIRST AID TREATMENT IS IMPORTANT TO PREVENT INFECTION.

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!!!



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Safely use and dispose of fluorescent lighting

We've all been encouraged to switch from incandescent light bulbs to the more energy efficient compact fluorescent lightbulbs in our homes, and of course, fluorescent lighting is the norm in most businesses. Fluorescent lighting uses less electricity than incandescent bulbs, but there are some safety issues involved with using them. Make sure you know the best way to take care of your workers and the environment.



search a wider geographic area for proper disposal options. Never send a CFL or other mercury containing product to an incinerator. "

Visit <http://lighterfootstep.com/5-ways-to-recycle-a-cfl.html> for more information on how to recycle CFLs.

The problem of breakage of a CFL is far more serious. According to the California Department of Toxic Substances Control, this is what you need to do should you break a bulb:

- * Open all doors and windows to ventilate the area for at least 15 minutes.
- * Turn off your air conditioner/fan/heater so as not to circulate any mercury vapor.
- * Young children and pregnant women should leave the area during cleanup.
- * Wear protective equipment, such as a dust mask and gloves, to keep bulb dust and glass from being inhaled or contacting your skin.
- * Carefully remove the larger pieces and place them in a secure closed container.

* Next, begin collecting the smaller pieces and dust. It is recommended that you use two stiff pieces of paper such as index cards or one of the many commercial mercury spill kits available.

* Put all material into a sealed container. Pat the area with the sticky side of duct, packing or masking tape. Wipe the area with a damp cloth.

* Put all waste and materials used to clean up the bulb in a secure closed container and label it "Universal Waste - broken lamp."

* Take the container for recycling to the household hazardous waste facility nearest you.

* If the bulb breaks on carpet, the state of Maine's report suggests removing the area of carpet that has been contaminated as a precaution. If this is not feasible, it is recommended that you ventilate the area for several hours as well as during the process of vacuuming because vacuuming can circulate the vapor. If you vacuum, make sure to disposed of the bag along with the broken CFL at your local hazardous waste facility. You should also ventilate the room during the next few times you vacuum the area.

Fluorescent lights cannot be dumped in the trash because they contain mercury and are very toxic. Some places that sell CFLs, such as Wal-Mart and Ace Hardware, will take back any burned-out bulbs for disposal. If you have working bulbs you want to dispose of, you must take them to a hazardous waste disposal site. GE Lighting, a large producer of consumer CFLs, recommends these steps:

"Like paint, batteries, thermostats, and other hazardous household items, CFLs should be disposed of properly. Do not throw CFLs away in your household garbage if better disposal options exist. To find out what to do first

check www.earth911.org (where you can find disposal options by using your zip code) or call 1-877-EARTH911 for local disposal options. Another option is to check directly with your local waste management agency for recycling options and disposal guidelines in your community. Additional information is available at www.lamprecycle.org. Finally, IKEA stores take back used CFLs, and other retailers are currently exploring take back programs.

"If your local waste management agency offers no other disposal options except your household garbage, place the CFL in a plastic bag and seal it before putting it in the trash. If your waste agency incinerates its garbage, you should

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Windscreen

Continued from page 1

contractors need to install windscreen taut against fencing to prevent abrasion and material wear. Brown recommends ensuring placement with quality, UV stabilized tie wraps. Windscreen over six feet high should be tied in the middle to decrease wind load and stress on the fence.

Brown reminds managers that more and more building codes require windscreen installation before work can begin. He has heard of heavy fines meted out in Chicago to confused construction companies not up to date with compliance.

"But don't think of it only as a requirement," Brown says. "There is a real benefit to a construction company's brand and image with quality windscreen. Especially in high traffic sites, custom logos can lure real prospects. Well-installed fence screen is a net positive on a contractor's image."

Along with the real dollar savings in job site productivity and cleanup costs, a custom branded fence screen installation is the smart way to begin a profitable construction project.

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