

CLSB Crackdown

Maintaining your contractor's license and using only licensed subcontractors is extremely important. The CSLB, in conjunction with other state agencies, is constantly on the lookout for unlicensed activity. The good news is that this type of enforcement keeps the quality of work up, and playing field level for all of the quality, licensed contractors of NARI. On the other hand, there are instances where even a licensed contractor is at risk if not careful. Here are some examples of recent CSLB crackdowns and how to protect yourself.

The Big Jobs. Recently the Contractors State License Board has cracked down on unlicensed activity throughout the State of California (See [CSLB Press Release 5/13/2014](#)). In May of this year, the CSLB made an unannounced visit to a large project in Downtown Los Angeles. It turns out, the project's primary contractor was a Canadian based company with a valid California license. However, the drywall subcontractor had applied for a license, but had not completed the licensing process. The subcontract itself was worth \$5.5 million.

The CSLB levied the maximum civil penalties allowed against the drywall subcontractor for contracting without a license. The Labor Commissioner's Office (DLSE) cited the drywall subcontractor \$180,400 for performing work without a license, based on the number of employees and when the subcontractor started work. The CSLB also ordered the subcontractor to cease work on the project, likely causing an unknown but high cost of delay, lost profits, and/or disputes, for the Owner, General, and unlicensed subcontractor.

This was the second time in a month that a Canadian drywall subcontractor had been heavily fined and ordered to halt work for working in California without a license.

The Lesson. Even though the large majority of contractors are not working on jobs of this size, this example provides an extreme example of the risks associated with working with unlicensed contractors.

First, no one should be performing construction services without an active, and

applicable state license. The risks include civil penalties, fines, loss of contracts, and potentially even criminal charges. Unlicensed contractors of course also risk not being paid or having to return payment under state law.

Additionally, just because you have a license doesn't mean you are not responsible for checking the license of your subcontractors. In the Los Angeles example, the licensed general contractor was fined over \$10,000 by the DSLE and may still face additional fines and/or administrative action by the CSLB for contracting with a non-licensee. Thus, as a licensed general contractor you must be sure your subcontractors are licensed and insured for your own protection.

The Small Jobs. In March, 2014, 121 individuals were arrested during the CSLB's spring "California Blitz" (See [CSLB Press Release 4/01/2014](#)). Investigators from CSLB's Statewide Investigative Fraud Team (SWIFT) partnered with local law enforcement and conducted a simultaneous sting operation in nine California locations. Essentially, the investigators posed as homeowners seeking bids for various services including painting, drywall, landscaping, decking, cabinets, flooring, fencing, concrete, and tree removal work.

Out of the 121 individuals arrested, 115 now may face misdemeanor charges for contracting without a license (B&P §7028), 94 may be charged with illegal advertising (B&P §7027.1), and 7 may be charged with requesting an excessive down payment (B&P §7159.5 - 10% of total contract price or \$1,000, whichever is less). The misdemeanor charge can include a penalty of up to six months in jail and/or a \$5,000 fine. The large majority of those arrested had listings on craigslist.

The Lesson. These examples remind us that the CSLB is constantly policing the construction industry and no job or contractor is too small to investigate. Most of the individuals involved in this sting operation were quoting jobs in the \$1000-\$5,000 range. Even if you are a licensed contractor, you must remember to comply with the other codes and regulations. These include listing your license number on all advertisements and complying with the contract requirements such as maximum down payments.

We understand that complying with all the various rules and regulations can be tedious. However, failure to comply with the various requirements at any time can put you at risk of civil penalties, administrative actions, and fines. Additionally, the failure to ensure your subcontractors are also abiding by the codes and regulations puts you at risk.

Conclusions. The CSLB partners with other agencies and actively pursues those in violation of the various code sections and regulations placed on the construction industry in California. On the one hand, this policing of the rules and regulations evens the playing field for all those who are already licensed and playing by the rules. On the other hand, it means that even quality, honest, licensed contractors, must be careful to follow those rules and regulations on a consistent basis - even when the jobs are small.

General contractors must also take responsibility for checking the status of the license of their subcontractors. If the subcontractor comes under investigation and it turns out they are in violation of licensing regulations, it is possible that the CSLB will take action against the general. Fortunately, the CSLB website makes it easy to check the status of a license. Our recommendation is to make it a regular practice of checking and printing out the license page for any contractor that you work with.

To see the articles, press releases, and other information published by the CSLB, please go to <http://www.cslb.ca.gov/GeneralInformation/Newsroom/>.

Bryant H. Byrnes, Esq. practices construction law in the San Francisco Bay Area and is counsel to the SFBA NARI Board of Directors.

Brian J. Trowbridge, Esq. of Trowbridge Law Office practices construction law in the San Francisco Bay Area.

Questions? Bryant's website is www.bryantbyrnes.com. Feel free to contact him by email at Bryant@bryantbyrnes.com. Brian's website is www.trowbridgelawoffice.com and you can email him at btrowbridge@trowbridgelawoffice.com.

For Bryant's previous articles, please visit SFBA NARI's website and click on the link "In the News/Newsletter" under "For the Trade." They are also available on his website under "Articles," and on Brian's website under "Publications."

As always, these articles are summary discussions only - to simply give you a heads up on various construction topics. The information contained herein is not legal advice. Each scenario is different and if you need legal advice you should contact an attorney immediately.