



The California Contractor

News for the Western Regional Master Builders Association

Vol. 33 - No. 3
March, 2008

At a Glance

Law Talk: Proof of licensure

Be careful with lifting, transporting heavy loads

The importance of tailgate safety meetings

Web Corner: Small business assessment

... 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

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(866) 500-6359

Please visit your association at its new website:



www.wrmba.com

CSLB stings net predator in Lincoln, more than a dozen in Woodland

The Contractors State License Board (CSLB) in partnership with the Lincoln Police Department captured an armed, ex-convict with a history of violence and consumer fraud early this morning, 36 year-old Jonathan Aaron Teague was arrested on a felony traffic stop in Lincoln for multiple felony and misdemeanor charges relating to illegal weapon possession, illegal use of someone else's contractor's license and contracting without a license. Teague has been under investigation by CSLB's Statewide Investigative Fraud Team (SWIFT) for wrongfully using the legitimate license numbers of two different companies.

The CSLB believes Teague has been contracting for home improvement projects in El Dorado, Yuba,

Sacramento, Napa and Placer Counties and has taken about \$300,000 dollars from property owners in the past year. According to investigators, Teague's pattern was to take payments from homeowners and do substandard work or no work at all, and then disappear. It's believed he was still soliciting work and taking money until the day before his arrest. Home improvement contracts, drug pipes, four throwing knives, and two other knives were in his possession when he was arrested this morning.

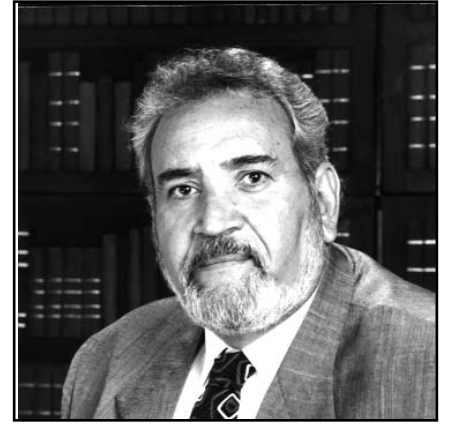
Teague was booked into the Placer County Jail for illegal weapons possession, 26 felony charges of illegal license use and 26 misdemeanor charges for contracting

Please see STINGS, page 4

LAW TALK



By Sam Abdulaziz
Abdulaziz, Grossbart & Rudman



Proof of license and licensure

The Legislature likes to put the burden on contractors when dealing with construction matters. In this case the issue of who has the burden of proof, and how the proof needs to be shown was the important aspect.

When a contractor sues to recover compensation for work requiring a contractor's license, Business and Professions Code Section 7031 requires the contractor to allege that he or she "was a duly licensed contractor at all time during the performance of the act or contract." If the issue of licensure is "controverted" (disagreed to) by the defendant, then the contractor must prove licensure by producing a verified certificate from the Contractors' State License Board. That means that the contractor must obtain from the Contractor's Board a document called a "Verified Certificate" as proof. Verbal proof or

If the issue of licensure is 'controverted' by the defendant, the contractor must prove licensure by producing a verified certificate from the Contractors' State License Board.

another document does not appear to be sufficient.

In this case, the contractor did not do that.

Advantec was a developer of a multi unit apartment building and hired Edwin's to furnish plumbing services and materials in accordance with a sub-contract agreement.

Edwin's worked on the project from February 2004 until November 2004. When Advantec terminated Edwin's from the project prior to its completion, Advantec filed a lawsuit for breach of contract against Edwin's. Edwin's filed an answer to the Complaint. Later, Edwin's filed a cross-complaint alleging among other things, breach of contract by Advantec. Edwin's alleged that "it is a licensed plumbing contractor performing work under the laws of the state of California." Note that it never mentioned a "verified certificate." Advantec filed an answer to the cross-complaint, which denied "each and every allegation" of the cross-complaint. The answer did not include a specific challenge to Edwin's licensure status.

However, since Edwin's did not have verified certificate, he asked the court for a continuance to obtain

a verified certificate from the state licensing board. It is alleged that it would have taken two weeks to get that document. The Court failed to continue the case. After some argument, the answer was relatively clear. First non-licensure is an important issue. There were other issues. However, the gist of this argument was that Edwin's could not recover, because he never produced the verified certificate.

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
Advantec Group, Inc. v. Edwin's Plumbing Co., Inc., Super. Ct. No. BC327053, 2007 DJDAR 11201

FREE Theme Park Discount Coupons!!!
Available to all W.R.M.B.A. members and their employees

Call the Association office to request these and other coupons!

Knott's Berry Farm

Legoland

Long Beach Aquarium

Universal Studios-Hollywood

L.A. Zoo

San Diego Zoo and Wild Animal Park

Sea World...
...AND MORE!!!

**To receive these discounted admission coupons...
call the Association office at
(800) 823-4038**

Changes for the 2007 tax year

It's that taxing time of year again. While Congress was busy making last-minute fixes on the tax law, the IRS was scrambling to reprogram its processing system. Since many people use tax preparation software, the companies also had to update their forms. If you use software, it's even more important this year to check the Web site for updates.

With the mortgage crisis peaking at the end of last year, there have been a few changes in the 2007 tax law. Homeowners facing foreclosure have one bright spot in that they don't have to pay taxes on mortgage debt that was forgiven in 2007. The limit is \$2 million or \$1 million for a married person filing separately. Previously, loan forgiveness was often taxed as income.

If you were fortunate enough to have left over cash and felt charitable, hopefully you wrote a check. If you gave cash and didn't get a detailed written receipt, you cannot make a deduction. The IRS now requires donations to be backed up by proper records, such as check, bank copy of the check, electronic funds transfer record, credit card or credit union statement, or W2 in the case of payroll deduction.

Previously, for amounts under \$250, a taxpayer's notes or check register were enough proof. You don't have to provide the check or other documentation to the IRS with your return, but if you are audited you will be required to provide the check or other documentation.

If you get stuck, there are numerous places to get help. Here are a few:

* If your income was \$54,000 or less, you can use Free File to prepare your taxes online for free through



SAFETY MATTERS



Take the burden out of heavy loads

For almost every worker, ergonomic hazards are present. Injuries caused by repetitive motions, poor lifting and handling practices are some of the most common.

The following safety tips provide helpful ergonomic guidelines for the variety of different 'lifting' situations workers may encounter.

Pre-Lift

* Consider the weight of the load being lifted. Will you need help or mechanical assistance? Is the load too heavy for one person?

* Consider the size and/or shape of the load. Do they create any additional challenges?

* Determine if you will have to turn or change direction while carrying the load.

* Find out if the route you will take with the load is clear of obstructions, slip, trip or fall hazards.

* Make sure you have a back support belt and are wearing it properly.

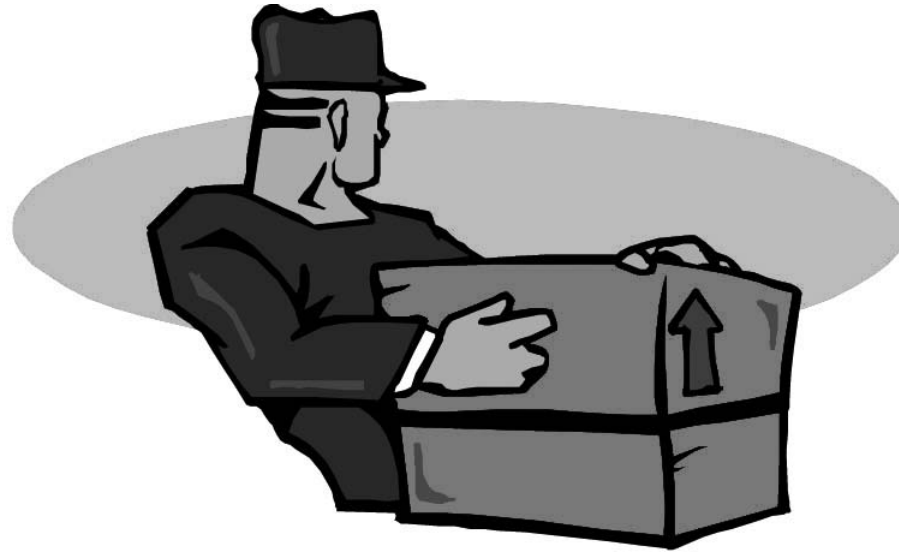
Safe Lifting

When lifting a load from ground level:

* Get as close as possible to the load.

* Bend your knees, not your back.

* Get a good grip on the object



and test its weight.

* Keep the load close to your body and lift using your legs.

* Be aware of your balance and what part of your body is doing the work - it should be your legs.

When lifting a load from overhead:
* Make certain you are standing on a stable surface before you attempt the lift.

* Test the load to be sure you can lift it safely.

* Take the object off the shelf or support carefully, maintaining your balance.

* Maintain control of the load, and

bring it down to waist level.

When lifting from a shelf, desk or counter:

* Pull the load close to your body and test its weight.

* Shift the weight of the load to your legs by keeping it close.

* Avoid reaching and lifting at the same time.

Carrying

* Look ahead to make certain your path is clear.

* Avoid stairs if possible. If you take stairs, use the banister or wall to help you maintain your balance.

* Have someone else open doors,

gates or other closed entries for you.

* Change direction by moving your feet, not your hips.

* Keep shoulders, hips and feet pointing the same direction.

* Never twist at the waist while carrying a load.

* Set the load down if it becomes too heavy or unstable.

Moving Carts, Hanging Loads

* Remember to push, not pull whenever possible.

* Position the load so that your legs supply the force.

* Use hands and arms for control and direction of the load.

* Keep hands and fingers inside the load whenever possible.

* Watch for pinch or shear points on carts, dollies or hoists.

Setting Loads Down

* Bend your knees, not your waist.

* Set down the corner or edge of the object closest to you first, keeping your fingers out from under the load.

Safe lifting, carrying and transporting techniques can help you avoid sprains, strains and other painful injuries at work. Whatever the task, make sure to ask for help when a load is too heavy for you to handle on your own!

The ins and outs of tailgate/toolbox safety meetings

Tailgate or Toolbox safety meetings are 10-15 minute on-the-job meetings held to keep employees alert to work-related accidents and illnesses.

Tailgate/toolbox safety meetings have proved their worth by alerting employees to workplace hazards, and by preventing accidents, illnesses and on-the-job injuries.

Why Have Them?

All California employers must have a safety program that includes employee training in safe work practices. Tailgate/toolbox safety meetings can be used to address actual problems on the job or in the shop. The supervisor leading the meeting can draw on the experience of workers, and use that experience to remind all employees—especially newer ones—of the dangers of working with particular kinds of machinery, tools, equipment and materials.

What to Talk About?

Talk about work practices, machinery, tools, equipment materials, attitudes, and anything else that may cause or contribute to a work-related accident or illness. Keep the topic relevant to the job or tasks at hand.

An excellent source for construction related topics is the publication Cal/OSHA Pocket Guide for the Construction Industry. Supervisors can choose individual sections or topics and relate them



to their specific site requirements. Copies can be ordered from the Division of Occupational Safety and Health.

Choose a topic you think needs safety review. If you notice that spills aren't being cleaned up promptly, discuss it. If there has been an accident or a near-accident on the job, talk about it. What happened? Where did it happen? How can it be prevented from happening again?

Encourage employees to suggest topics. They often know what and where the dangers are.

How to Run a Good Meeting

1. Hold the meeting on the job, preferably where everyone can sit and relax.

2. Hold meetings at the beginning of shift or after a break.

3. Choose the topic carefully. Topics should be about health and

safety problems on the job. Research the problem before the meeting. For machinery, consult the manufacturer's operations manual. For handling toxic substances, get a copy of the material safety data sheet. Your company's insurance carrier is another good source of information. Cal/OSHA also supplies a wide range of printed material on worksite safety and health.

4. Don't choose too broad a topic.

5. Encourage employee participation - keep your meeting short.

Resources:

Cal/OSHA Pocket Guide for the Construction Industry. Copies can be ordered from the Cal/OSHA

publications website at: <http://www.dir.ca.gov/dosh/puborder.asp>, or obtained from a Cal/OSHA District Office.

Cal/OSHA Construction Safety Orders can be reviewed at: <http://www.dir.ca.gov/Title8/sub4.html>

Note: The information provided is not meant to be either a substitute for or legal interpretation of the occupational safety and health regulations. Readers are cautioned to refer directly to Title 8 of the California Code of Regulations for detailed information regarding the regulation's scope, specifications, and exceptions and for other requirements that may be applicable to their operations.



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>

Stings: Licensed contractor cited for aiding unlicensed operator

Continued from page 1

without a license. His bail was set at \$110,000. Mr. Teague has served time and has a history of arrests for domestic violence, drug possession, sales and assault with a deadly weapon.

Investigators believe there may be additional victims in Northern California. Anyone who has information about Jonathan Teague or would like to file a complaint can contact SWIFT via phone at (916) 255-2924, or via fax at (916) 369-7265.

Illegal operators who showed up at a sting house in Woodland were swept up by the Contractors State License Board (CSLB) for unlicensed activity. Members of the CSLB's Statewide Investigative Fraud Team (SWIFT) posed as homeowners and invited suspected unlicensed contractors to bid on various home improvement projects. The enforcement action was done on February 14 in partnership with the Yolo County District Attorney's Office, the Yolo County Sheriff, The Department of Insurance and the Division of Labor Standards Enforcement.

During Thursday's sting, 12 operators were given a "Notice to Appear" (NTA) in Yolo County Superior Court in about one month for misdemeanor charges of contracting without a license, and advertising violations. 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.

One licensed contractor was cited for aiding and abetting an unlicensed operator. (Business and Professions Code 7114). There were three citations for contractors operating without workers compensation insurance, six for violations of child labor laws and three for cash payment of wages. Another suspect, Pedro Lopez, was arrested when it was discovered during a background check that he had an outstanding felony warrant for rape. He was booked into the Yolo county jail and was held pending \$100,000 bail.

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.



SBA offers online assessment tools

The U.S. Small Business Administration is helping hundreds of prospective entrepreneurs each day through two online assessment tools, the "Small Business Readiness" and the 8(a) Business Development assessment tools. "These new tools represent a changing SBA, where more Web applications are being used to better serve our small business customers so they can have information when they need and wherever they are doing business," said SBA associate administrator Anoop Prakash.

The Small Business Readiness assessment tool helps prospective entrepreneurs determine their level of preparedness for venturing into a new business through a series of automated questions. It helps them evaluate their skills, characteristics, and experience as they relate to starting a business. Based on their scores, entrepreneurs are directed to the SBA training resources that support the identified needs to improve business preparedness. The Small Business Readiness assessment tool is available on the SBA's Web site at

<http://www.sba.gov/assessmenttool/index.html>, or by clicking the "Assessment Tool" icon under the spotlight heading on the SBA home page.

The 8(a) Business Development assessment tool was launched in October to help small business owners decide whether they are suitable and eligible for the SBA's 8(a) Business Development Program. The program helps small disadvantaged businesses compete in the U.S. economy through business development. Like the small business readiness assessment, the customized 8(a) Business Development assessment tool directs entrepreneurs to targeted training and resources online. It too is available online at <http://training.sba.gov:8000/assessment>.

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Taxes: Internal Revenue Service provides help at their website

Continued from page 2

the IRS' partners in the Free File Alliance. Go to the IRS Web site and follow the links to Free File.

* Tax Counseling for the Elderly helps people 60 and older. There are 9,000 sites nation wide. To find one near you, call AARP at (888) 227-7669 or check their Web site at www.aarp.org/money/taxaid.

* Military personnel and spouses get help both here and abroad through a program coordinated by the Armed Forces Tax Council. The IRS provides tax software and training. See IRS Publication 3, "Armed Forces' Tax Guide" on the IRS Web site, www.irs.gov, or call (800) 829-3676.

The IRS doesn't just take your money. They also provide assistance at their Web site. You can order publications on any tax topic, forms and instructions. They also have an interactive tool you can use for making certain calculations.

If you want phone assistance, the IRS has several toll-free numbers. Individuals can call (800) 829-1040; for businesses (800) 829-4933. The hearing impaired should call (800) 829-4059.

The Taxpayer Advocate is an independent office within the IRS. It doesn't help you file your return, but it will help with unresolved tax issues or problems with the IRS. The toll free number is (877)-777-4778.

If you hire someone to calculate your tax, be sure to get the right preparer. It's advisable to hire an enrolled agent. These are tax professionals who are licensed by the federal government and can prepare tax returns, as well as answer questions about federal and state tax laws. They can also represent you in disputes with the IRS. A list of enrolled agents is available on the Web site of the National Association of Tax Professionals, at www.taxprofessionals.com.

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