

CONTRACTORS LICENSE RENEWAL: HEADS UP!

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Many if not most contractors generally rely on receiving notice from the CSLB to remind them to renew their licenses. If contractors don't get this renewal notice, it's sometimes not on their radar of things to do. However, failing to timely and properly renew a license with the CSLB can be a significant and costly problem.

Recently, I was reminded how serious a problem it can be. One of my clients, a general contractor with a long-standing and absolutely clean license, failed to properly renew its license due to an unfortunate chain of circumstances.

The Situation. My client has run the corporate business successfully for a number of years. As a matter of course it had been always properly licensed and always renewed without difficulty. The contractor had also maintained good corporate records, filed the appropriate documents with the Secretary of State, paid taxes, and held – and documented – the required annual corporate meetings.

Commencing in mid-2015, the client became involved in a multi-year East Bay commercial renovation, one that is ongoing. It was and is an infinitely time consuming job.

On a personal front, several months before the license renewal was due in the second half of 2015, the contractor had moved its business office – but failed to update the address with the CSLB. (It had arranged to have the company mail forwarded by the USPS.) Finally, the contractor was on a trip out of the country about the time the renewal was due.

The Other Shoe Drops. While the burden to renew a license is on the contractor, as a courtesy the CSLB does send notices to its licensees regarding renewal several months prior to the renewal date. In this instance, any notices and/or correspondence from the CSLB regarding the license renewal were not received by the contractor. And the contractor did not have the license renewal due date logged in its office calendar.

In other words, the perfect storm. Suffice to say, the license expired.

Back home from his trip and several weeks later, the contractor entered into a new contract for a large home remodel project. Pulling the permit, the contractor discovered that its license was not active. Immediate remedial steps were taken – the application for renewal was hand carried and recorded in Sacramento the next day. But in the time period between the expiration and the renewal, the contractor had been performing work as an inactive and thus unlicensed contractor.

The Huge Risk of Working as an Unlicensed Contractor. California Business and Professions Code Section 7031 is **very** draconian; it includes the consumer's remedy of disgorgement from the contractor of **all** sums paid. This remedy seems to be available regardless of how poorly or how successfully the project went. It bears repeating: a contractor's client can bring suit to recover all compensation paid to an unlicensed contractor.

Contractor Remedies for this Situation. There are several remedies/remediations possible for the contractor. First, with its application to reinstate its license the contractor may also separately petition the CSLB to “back date” the renewal to the date the previous license term expired – thus leaving no gap in the license history. The petition must include a “good cause” explanation for why the renewal was untimely. Note - the petition must be submitted simultaneously with the renewal application and the application must include any late renewal fees.

If things go very, very badly and a claim for disgorgement of money paid is an issue in litigation or arbitration, there is a possible saving grace in Business & Professions Code §7031(e). A court can find in the contractor’s favor against such a claim if it finds substantial compliance - if a contractor had been properly licensed immediately before the unlicensed activity; if it acted reasonably and in good faith to maintain licensure; if it did not know or reasonably should not have known that it wasn’t unlicensed; and if it acted immediately to reinstate its license when learning it was invalid.

That is a lot of “ifs.”

The Moral of the Story. The buck ultimately stops with the contractor on this issue. It is obviously easier to be proactive. **Calendar** license renewal in several places. Always **read anything and everything** from the CSLB. If you move, don’t count on the USPS to properly forward your mail. **Register** your new address with the CSLB.

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