CSLB CRACKING DOWN ON THE PRACTICE OF "RENTING" AN RMO OR RME

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The California Contractors State License Board ("CSLB") recently warned licensees of the "perils" of "renting" a qualifier. Renting a qualifier means that a non-licensed contracting business pays an individual who holds a California contractor's license to act as the Responsible Managing Officer ("RMO") or Responsible Managing Employee ("RME") of a construction company, when that person has no actual involvement in the day-to-day operations of the company. Construction companies do this in order to obtain a license without the owner(s) meeting the experience and examination requirements necessary to obtain a contractor's license.

The RMO or RME of a licensed construction business is held accountable for all activity and any violations committed by the company. The law requires that the RMO or RME of a construction business exercise direct supervision and control of its contracting operations. If the licensed individual is not doing so, or if any of the other business officers, general partners, or employees break the law, the RMO or RME can lose his/her qualifying license and any other license on which the individual serves as a "qualifier" pursuant to Section 7068.1 of the Business and Professions Code. In addition, under Business and Professions Code Section 7122.5, any act or omission that is a cause for disciplinary action by any individual partnership, corporation or firm is also a cause for disciplinary action against the RMO or RME, regardless of his or her knowledge and participation.

In light of a sharp rise in consumer complaints against construction companies that have "rented" qualifying members, at the request of the CLSB, the Legislature passed and the Governor signed SB 862, which became effective in January of this year. SB 862 gave the CSLB additional enforcement authority to crack down on "rented" qualifiers by allowing the CLSB to take disciplinary action against a qualifier and a licensee if the qualifier is not actively involved

in the construction activities of the licensee's business and to seek misdemeanor criminal charges, which can include imprisonment in the county jail up to six months, a fine of up to $5,000, or both.

A CSLB task force, found to ferret out rented qualifiers, will also be watching for exam waiver requests from applicants suspected of only seeking to rent their name for a fee. The CSLB will seek to revoke qualifier status previously granted to anyone whose actions demonstrate they do not have an ownership stake or are not active decision makers listed on a license.