

THE 7031 HAMMER DROPS (AGAIN!)

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Last month, the Court of Appeal in Los Angeles once again strictly enforced the contractor licensing requirements of Business and Professions Code 7031 (_Twenty Nine Palms Enterprises Corporation vs. Bardos_), and disgorgement of all monies paid to an “unlicensed contractor.” In this case, it will result in the “unlicensed contractor” paying the owner over \$750,000.00, the entire cost of the completed project (about which there were apparently no complaints).

Although the decision covers many areas of law, the relevant facts and the court’s position are straightforward. Twenty Nine Palms is a tribal corporation of the Twenty Nine Palms Band of Mission Indians which owns and operates the Spotlight 29 Casino in Coachella, near Palm Desert. Paul Bardos was a licensed general contractor, but, importantly, his license was filed with his corporation, Bardos Construction, Inc. (“BCI”), where he was the Responsible Managing Officer. He did not retain a license in his personal name.

From the Court’s decision and Bardos’ allegations, it appears that Twenty Nine Palms was constructing a new parking structure using a third party contractor. Bardos was acting as an adviser to Twenty Nine Palms with respect to that project, overseeing the other contractor. At some point, Twenty Nine Palms apparently asked Bardos to construct a temporary road and temporary parking lot to be used while the new parking structure was being built. According to Bardos, in order to keep Bardos’ identity in the temporary project secret from the general contractor (because Bardos was overseeing the other contractor’s work) Bardos personally agreed to do the project under a dba, Cadmus Construction Co. The contract with Twenty Nine Palms was entered into under the name of Cadmus and all payments were made to Cadmus. Cadmus submitted its bid in March, 2007, and the work was completed and paid in full in May, 2007. The total amount of the work was \$751,995.00. Bardos filed a fictitious business name statement for Cadmus in April, 2007, but never obtained a contractor’s license under that dba until well after the job was completed.

Therefore, in summary, Bardos had a corporation which was licensed, but did not have a personal license when he created the fictitious entity, Cadmus Construction Co. Despite many

arguments made by Bardos to prevent the Court from ruling against him, the Court said that his corporation (Bardos Construction, Inc.) was a different entity from his dba, Cadmus Construction Company. Bardos Construction, Inc. was licensed, but Cadmus Construction Co. was not. As a result, the Court ordered Bardos / Cadmus to pay Twenty Nine Palms \$751,995.00, plus all of Twenty Nine Palms' costs on appeal. Bardos argued strongly that this was not an equitable result, but the Court responded, saying "It has long been settled that the courts may not resort to equitable considerations in defiance of Section 7031."

Once again, this case demonstrates that Section 7031 is very strictly interpreted with respect to the licensing of contractors.