Underground Facilities Safe Excavation Board

In the Matter of
DePiazza and Reed Construction

No. 20SA1073

November 16, 2020

DECISION

This decision was made by the Board on November 16, 2020. Respondent DePiazza and Reed Construction did not respond to the Notice of Probable Violation.

Board members Bianchini, Charland, Del Toro, Johns, Johnson, Munoz, and Voss participated in the decision. Board member Forte did not participate in the decision.

Having considered the report of investigation, the Board finds that a probable violation of Government Code section 4216.2(b) occurred.

The Board finds that an order directing DePiazza and Reed Construction to take the Board's education course is an appropriate sanction.

The Board will transmit the investigation results and the recommended penalty to the Contractors State License Board.

DePiazza and Reed Construction Excavated Without Obtaining a Ticket
One must obtain a ticket before excavating,[1] and cannot begin to excavate until after the legal excavation start date and time, which is indicated on a dig ticket.[2] And one may not continue to excavate after the ticket expires.[3] DePiazza and Reed Construction conducted excavation work without obtaining a ticket.

[1] Gov. Code § 4216.2(b), (e), (i)
[2] Gov. Code § 4216.2(b)
[3] Gov. Code § 4216.2(e), (i)

Referral to the Contractors State License Board is Appropriate
When the Board finds a probable violation of Dig Safe laws, the Board may "transmit the investigation results and any recommended penalty" to the appropriate agency, identified in Government Code section 4216.6(c) or (d).[4] Section 4216.6(c)(1) provides that the Registrar of Contactors of the Contractors State License Board shall enforce the requirements of Article 2 (commencing with section 4216) on contractors.

The investigation report indicates that the Contractors State License Board has issued a license to DePiazza and Reed Construction.

An Order to Take the Board's Education Course is Appropriate
Section 4216.19(e) provides that sanctions shall be graduated and may include notification and information letters, direction to attend relevant education, and financial penalties. And further, that this information is relevant to the sanction determination:

(1) The type of violation and gravity.

(2) The degree of culpability.

(3) The operator's or excavator's history of work conducted without violation.

(4) The operator's or excavator's history of work conducted without violations.

(5) The efforts taken by the violator to prevent violation and, once the violation occurred, the efforts taken to mitigate the safety consequences of the violation.

Date:

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Carl Voss, Chair

[4] Gov. Code § 4216.19(d)