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Department of Industrial Relations
Office of the Director - Legal Unit
Hearing Officers Unit - SF

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

MAR 09 2007

In the Matters of the Requests for Review of:

Norment Security Group, Inc.

By: 

Cases No. 05-0128-PWH
and 05-0130-PWH

From Assessments issued by:

Division of Labor Standards Enforcement.

ORDER DENYING RECONSIDERATION

I have read the Motions for Reconsideration filed by the Division of Labor Standards Enforcement (Division) on February 26, 2007, and by Norment Security Group, Inc. (Norment) on February 28, 2007, and the responses filed by the Division on March 2, 2007 and by Norment on March 5, 2007. Based on my review of the parties' arguments and relevant parts of the record, I find no grounds for reconsideration of the Decision of the Director issued on February 22, 2007.

Neither the Division's arguments attempting to add conditions, beyond those in 1773.1 (b) as to what is creditable as an "employer payment" against the prevailing wage obligation, and thus seek denial of the credit granted for the subcontractor's contributions to the applicable union trust funds, nor Norment's arguments regarding penalties and liquidated damages, raise any issues that show that the reasoning of the Decision was in error. All issues raised by the parties with regard to these arguments were addressed in the Decision. The case of *Violante v. Communities Southwest Development and Construction Company* (2006) 138 Cal.App.4th 972, first raised by Norment after submission of these matters for decision, was not addressed in the Director's Decision. The decision is not applicable to the facts of these cases but Norment's misinterpretation of it is worthy of some explanation. In *Violante*, the Court of Appeal was specifically addressing private rights of action and held that "a subcontractor's employee on a public works project cannot sue the prime or general contractor on

