

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, January 21, 2009

10:00 AM

Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: January 9, 2009

RE: Closed Session of the Board on January 21, 2009

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. BIMBO BAKERIES USA, 05-R6D2-0856 AND 0857
2. HILL REBAR, INC., 06-R3D3-1428 THROUGH 1430

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For January 21, 2009

Page 2

1. 9X MEDIA, INC., 07-R1D2-3748 THROUGH 3750
2. AIR INDUSTRIES COMPANY, 08-R4D3-0438 AND 0439
3. AJ HARRISON, INC., 08-R4D3-0758
4. AMERICAN GROWERS COOLING COMPANY LLC, 08-R6D3-3239 AND 3240
5. AMERICAN SECURITY PRODUCTS, 08-R3D3-2859 AND 2860
6. AZTEC HARVESTING, INC., 08-R6D5-3326
7. BUENA GEOTECHNICAL SERVICES, 08-R4D3-1162 AND 1163
8. CACIQUE, INC., 08-R4D4-0931
9. CALIFORNIA QUALITY PLASTICS, INC., 08-R3D3-1501 THROUGH 1505
10. COMPAC USA, INC/COMPAC WEST, 08-R3D3-1340 AND 1341
11. CONOCO PHILLIPS COMPANY, 08-R6D4-2086 THROUGH 2088
12. COR CONSULTING, INC. DBA COR CONSTRUCTION, 08-R4D3-2598
13. DELTA PRINTING SOLUTIONS, 08-R4D3-3598 THROUGH 3600
14. DDS SYSTEMS DBA ACE CONSTRUCTION & DESIGN, INC., 07-R4D4-5393 THROUGH 5395
15. EDELBROCK FOUNDRY CORP., 08-R3D3-0918 AND 0919
16. EL QUESO GRANDE, INC., 07-R6D2-4438 THROUGH 4489
17. F.W. HOFFMEISTER MASONRY & CONCRETE, 08-R4D4-1164 AND 1165
18. FACTORY 2 U, 07-R4D3-5222 AND 5223
19. FORTHRIGHT CONSTRUCTION, INC., 07-R3D5-5355 and 08-R3D5-2062
20. GEMMA POWER SYSTEMS CALIFORNIA., INC., 07-R2D1-3653 THROUGH 3655
21. GOLDEN STATE FOODS, 07-R4D4-5228 AND 5229

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For January 21, 2009

Page 3

22. HARTWELL CORPORATION, 08-R3D3-1342
23. OZZIE HERRERA DBA PACIFIC GREEN LAND CARE, 08-R3D3-1417
24. HUSSMAN CORPORATION, 08-R4D2-3529 THROUGH 3533
25. IN JUNG CORP., 08-R6D5-2089 AND 2168
26. JAIME SILVA ROCHA, 07-R3D3-3056 AND 3057
27. JAMISON SERVICES, INC., 08-R4D4-1371
28. GARCIA JUAREZ CONSTRUCTION, INC., 06-R5D2-0989
29. JUENGERMANN, INC. DBA SPRING INDUSTRIES, 08-R6D2-3552 AND 3553
30. K-MART DISTRIBUTION CENTER, 07-R3D3-4554
31. MADRID, INC., 08-R6D2-2021 THROUGH 2024
32. MANNY'S ELECTRIC, INC., 08-R3D3-1225
33. MARINE TERMINAL CORP., 07-R6D2-5241
34. MIKAWAYA, INC., 08-R6D2-0940 THROUGH 0948
35. MJW AND ASSOCIATES, INC., 08-R3D3-1329
36. PACIFIC CONSOLIDATED INDUSTRIES LLC, 08-R3D3-3519
37. JC PENNY STORE #0250-1, 08-R3D5-1347 AND 1348
38. FRANK P. PETRELLI & SON, 08-R4D3-1750
39. PRO-ACTIVE STAFFING, 08-R3D3-1408
40. PROGRESSIVE FOREST INDUSTRIES, 08-R6D2-1921 AND 1922
41. PROUD AUTO BODY & PAINT, INC., 08-R6D5-4867 AND 4868
42. THE RELIZON COMPANY DBA WORKFLOW ONE, 08-R3D3-1608 AND 1609
43. RENTERIA AUTO PARTS, 08-R4D4-0326 AND 0327

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For January 21, 2009

Page 4

44. RESPONSE ENVELOPE, INC., 08-R6D2-2569 THROUGH 2573
45. RITE-WAY MEAT PACKERS, INC., 08-R6D2-2206 AND 2207
46. RIVERSIDE CLEANING COMPANY, 08-R3D3-1223 AND 1224
47. S & R FRAMING, 06-R3D3-3172
48. SF-DEPT. OF RECREATION & PARKS, 07-R1D1-2149 AND 2150
49. SHOOK BUILDING SYSTEMS, INC., 07-R4D2-5207 THROUGH 5209
50. SUNBIRD MONOGRAMMERS, 07-R6D2-4941 THROUGH 4946
51. SUPERDYEING, LLC., 08-R4D4-1169 THROUGH 1171
52. TWO CHEFS ON A ROLL, 08-R3D5-1416
53. VENUS TEXTILES DIVISION OF VENUS GROUP, INC., 08-R3D1-3693
54. WEI-PI CONSTRUCTION, 07-R4D4-4466 AND 4467
55. WILMINGTON WOODWORKS, INC., 08-R6D2-2353

ORDERS DISMISSING APPEALS:

1. BEATRICE AGUIAR DBA: E & B CUSTOM DOORS, 08-R6D2-2897 THROUGH 2900
2. BRIAN WILLIAMS CONSTRUCTION, 07-R4D1-0204 THROUGH 0206

STIPULATIONS

1. JOHN BIRDSSELL CONSTRUCTION, 06-R2D5-5162 THROUGH 5164
2. CONOCO PHILLIPS COMPANY, 07-R6D3-4788
3. PACIFIC GAS AND ELECTRIC, 06-R2D5-4599
4. SAN FRANCISCO ZOOLOGICAL SOCIETY DBA S.F. ZOO, 07-R1D1-2871

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety and Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. LUU'S BROS. CORP. DBA A & A SUPERMARKET, 07-R2D1-5156 AND 5157
2. NAUTICAL ENGINEERING, INC., 06-R6D1-4868 THROUGH 4872

DENIALS OF PETITIONS FOR RECONSIDERATION

1. LANCE CONSTRUCTION, 08-R4D3-1365 AND 1366
2. OLTMANS CONSTRUCTION CO., 08-R3D3-9435
3. SOUTHERN CALIFORNIA EDISON, 08-R3D3-9062
4. TRILAR MANAGEMENT GROUP, 08-R3D3-9040

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AC FRAMERS INC., 03-R2D3-3475
3. ASC PROFILES, INC., 06-R2D1-1181
4. ANNING-JOHNSON COMPANY, 06-R1D3-1976
5. BART, 03-R1D1-5170
6. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
7. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
8. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
9. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
10. CA RASMUSSEN, INC., 08-R4D5-219 AND 220

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For January 21, 2009

Page 6

11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
13. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224
14. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
15. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
16. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
17. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
18. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
19. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
20. DYNALECTRIC, 03-R1D1-4101
21. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. FORTUNA IRON WORKS 06-R2D3-4222
25. G.T. ALDERMAN, INC., 05-R4D3-3513
26. GAUTHIER CONSTRUCTION, 06-R3D2-3564
27. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
28. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
29. GLASS PAK, 03-R2D2-750 AND 751
30. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
31. HELPMATES STAFFING SERVICES, 05-R3D3-2239
32. THE HERRICK CORP., 07-R3D1-495

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For January 21, 2009

Page 7

33. HUSSMAN CORPORATION, 03-R3D1-2939
34. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
35. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
36. JENSEN PRECAST, 05-R2D1-2377
37. JOHN LAING HOMES, 04-R3D1-194 AND 195
38. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
39. KELLY SERVICES, INC., 06-R1D2-1024
40. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
41. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
42. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
43. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
44. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
45. O & M INDUSTRIES, 04-R1D5-1597
46. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
47. PHOENIX ONSTRUCTION SERVICES, 08-R4D2-9374
48. PMR RACE CARS, 03-R3D3-1825
49. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
50. RII PLASTERING INC., 02-R3D1-2679
51. R & L BROSAMER, INC., 03-R1D5-4832
52. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
53. STACY & WITBECK, INC., 05-R1D1-1142

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For January 21, 2009

Page 8

54. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
55. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
56. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
57. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
61. A. TEICHERT AGGREGATES, 04-R5D1-2982
62. TRIO METAL, 03-R4D4-317
63. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
64. UNITED PARCEL SERVICE, 07-R3D3-3322
65. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
66. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

PENDING LITIGATION:

(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
2. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
3. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
4. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
5. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For January 21, 2009

Page 9

6. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
7. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
8. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
9. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
10. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
11. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
12. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
13. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
14. DSS ENGINEERING CONTRACTORS, 02CS00928

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.