

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, August 18, 2010
10:00 a.m.
Sacramento, California
&
West Covina, California

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

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: August 5, 2010

RE: Closed Session of the Board to be held on August 18, 2010

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.

DECISION OF ADMINISTRATIVE LAW JUDGE:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & 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. PENHALL CO., 09-R4D3-3526

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & 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.)

1. AFFORDABLE PAINTING, 08-R2D1-2980
2. ALLSTAR SEED COMPANY, 10-R3D2-2196
3. ANDERCO, INC., 09-R6D2-3466 AND 3467
4. ASBESTOS REMOVAL, INC. DBA SIRRIS ABATEMENT, 09-R4D3-3992

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5. ASSOCIATED CONSTRUCTORS, INC., 08-R2D2-4117 through 4119
6. B & D INDUSTRIAL, 09-R6D2-3651 THROUGH 3658
7. BAJA CONSTRUCTION CO., INC., 09-R1D5-0102
8. BEUTLER CORPORATION, 08-R2D1-3069 AND 3070
9. CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION, 10-R3D2-0169
10. CARDENAS MARKET #81, 10-R3D3-1552
11. COSTLESS MAINTENANCE SERVICES COMPANY, INC., 09-R1D1-0619
12. CROWN POLY, INC., 10-R4D2-1609
13. D-7 ROOFING SERVICES, INC., 08-R2D4-3497 AND 3498
14. DAVIS WIRE CORPORATION, 10-R3D6-1063 THROUGH 1065
15. ENXCO SERVICE CORPORATION, 10-R3D3-1828
16. FRESNO COUNTY EOC, 09-R2D5-0353
17. FRY RANCHES, 09-R2D5-2292 AND 2293
18. GOLDEN SPECIALTY FOODS LLC, 09-R3D6-3678 THROUGH 3682
19. I & J BUILDERS, INC., 08-R2D4-2886 AND 2887
20. JACOBS FIELD SERVICES NORTH AMERICA, INC., 09-R4D2-3949
21. JD2, INC., 08-R2D1-2885
22. JML TEXTILE, INC. DBA W & M TEXTILE, 09-R4D2-3951 THROUGH 3953
23. KPRS CONSTRUCTION SERVICES, INC., 10-R3D3-0091
24. L.A. COUNTY CARSON ANIMAL SHELTER, 10-R3D5-1166
25. L.A. COUNTY DEPT. OF ANIMAL CARE & CONTROL – L.A. COUNTY CASTAIC ANIMAL SHELTER, 10-R4D3-0757
26. MILLER COORS LLC, 09-R6D4-0116 AND 0117

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27. MILLER COORS LLC, 09-R6D4-3956
28. OUTLOOK RESOURCES DBA LEFTBANK ART, 09-R3D6-4158 THROUGH 4160
29. QUIKRETE OF SOUTHERN CA., INC., 10-R4D3-1346
30. SLIPPERY ROCK RANCH, 10-R4D3-0884 AND 0885
31. TEDESCO CONSTRUCTION, INC., 08-R2D1-3130
32. THE GILBERT COMPANY, 10-R2D1-0403 AND 0404
33. TORO PALLETS, INC., 10-R4D2-0756
34. UC REGENTS – UC DAVIS, 09-R2D1-0236
35. UCSD MEDICAL CENTER HILLCREST, 10-R3D2-0170
36. UESUGI FARMS, INC., 08-R1D2-3027
37. UTILITY TREE SERVICE, INC., 08-R2D3-4748 THROUGH 4750
38. ODWAL R. VALENCIA DBA AG PRO MANAGEMENT, 09-R2D4-1107 THROUGH 1110
39. VALLEY TRUCK & TRACTOR CO., 09-R2D3-3056
40. WEBCOR CONSTRUCTION LP DBA WEBCOR BUILDERS, 09-R4D1-3524
41. WESTCOR CONSTRUCTION DBA WESTCOR FRAMING, 09-R4D2-3322 AND 3323
42. DARMOYN ZHORA/KARINA ARAYAN DBA UNIQUE AUTO BODY SHOP, 09-R6D1-3557 AND 3558

ORDER DISMISSING APPEAL:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. McMURRAY & SONS, INC., 09-R2D3-0849

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. JUANA GONZALEZ DBA LOS REYES RESTAURANT, 10-R6D7-9184
2. CHENG JI ZENG DBA ZENG'S PANDA BUFFET, INC., 10-R6D7-9183

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DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. ADECCO, INC. BRANCH 5100, 08-R2D1-4312

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. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
2. AC FRAMERS INC., 03-R2D3-3475
3. AC TRANSIT, 08-R1D4-0135
4. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
5. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
6. ANNING-JOHNSON COMPANY, 06-R1D3-1976
7. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
8. ALI AZAR DBA AMERICAN EAGLE BODY SHOP, 10-R6D7-1882
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
11. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
13. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
14. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
15. BURTON L. SILVA FARMS, 09-R1D2-1498
16. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
17. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
18. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978

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19. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
20. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
21. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
22. CLINE CELLARS, INC., 08-R1D5-2946
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
25. COMMERCIAL METAL FORMING, 09-R3D1-1592
26. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
27. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
28. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
29. DESIGN BUILDERS, INC., 08-R4D4-1901
30. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
31. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
32. DUKE PACIFIC, INC., 08-R3D3-574
33. DUININCK BROS., INC., 06-R4D3-2871
34. DYNALECTRIC, 03-R1D1-4101
35. E. C. U., INC., 09-R3D5-1094 AND 1095
36. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
37. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
38. EZ MIX, INC., 08-R4D3-1898
39. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
40. FORTUNA IRON WORKS 06-R2D3-4222
41. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568

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42. G.T. ALDERMAN, INC., 05-R4D3-3513
43. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
44. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
45. GLASS PAK, 03-R2D2-750 AND 751
46. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
47. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
48. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
49. HB PARKCO, 07-R4D2-1730 AND 1731
50. HELPMATES STAFFING SERVICES, 05-R3D3-2239
51. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
52. THE HERRICK CORP., 07-R3D1-495
53. HUSSMAN CORPORATION, 03-R3D1-2939
54. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
55. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
56. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
57. JENSEN PRECAST, 05-R2D1-2377
58. JOHN LAING HOMES, 04-R3D1-194 AND 195
59. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
60. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
61. KELLY SERVICES, INC., 06-R1D2-1024
62. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
63. LA MINA CANTINA, 09-R2D5-0039
64. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844

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65. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
66. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
67. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
68. MARINE TERMINALS, 08-08-R6D2-1920
69. MELMARC PRODUCTS, INC., 09-R3D1-2878
70. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
71. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
72. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
73. O & M INDUSTRIES, 04-R1D5-1597
74. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
75. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
76. POUK & STEINLE, INC., 09-R3D3-0491
77. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
78. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
79. R & L BROSAMER, INC., 03-R1D5-4832
80. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
81. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
82. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
83. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
84. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
85. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
86. STACY & WITBECK, INC., 05-R1D1-1142
87. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112

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88. SUNOPTA FRUIT GROUP, 09-R3D1-9245
89. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
90. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
91. TEICHERT AGGREGATES, 04-R5D1-2982
92. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
93. UNITED PARCEL SERVICE, 07-R3D3-3322
94. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
95. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
96. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for 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. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
4. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
8. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)

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9. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499/2500)
10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09- 9280/9281)
12. JC CONSTRUCTION, BS124990 (09-9265)
13. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
14. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-1139)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, B223828 (BS 119297) (08-9062)
2. HARRIS CONSTRUCTION COMPANY, INC., C060578 (07-CS00518) (05-3914)

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.