

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

Wednesday, December 17, 2008

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: December 5, 2008

RE: Closed Session of the Board on December 17, 2008

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. CA PRISON INDUSTRY AUTHORITY FOLSOM STATE PRISON, 07-R2D1-4537
2. CAROUSEL CARPET MILL INC., 07-R1D5-1782 THROUGH 1784
3. DUKE PACIFIC INC., 08-R3D3-0574
4. PG & E, 07-R1D3-1669
5. LANCE RYERSON DBA LANCE CONSTRUCTION, 08-R4D3-1365 AND 1366

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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.)

1. 180 CONNECT DBA IRONWOOD COMMUNICATIONS, 07-R1D1-1499 AND 1500
2. ARB INCORPORATED 08-R4D5-1031
3. AZO SEWING, INC., 08-R6D5-2298 THROUGH 2300
4. ACAPULCO SCREEN PRINTING, 08-R6D5-4105
5. ANDES CONSTRUCTION INC., 07-R1D4-4609
6. ATKINSON CONTRACTORS LP, 08-R3D3-0837
7. BLT ENTERPRISES OF SACRAMENTO, DBA SACRAMENTO RECYCLING & TRANSFER STATION, 07-R6D1-4749 THROUGH 4752
8. BOWMAN PLATING COMPANY, INC., 08-R4D2-1354
9. CARRERA MILLWORK, INC., 07-R1D2-0014 AND 0015
10. CLOUGHERTY PACKING, LLC DBA FARMER JOHN, 08-R4D2-1632
11. COASTAL EMPLOYERS, 07-R1D2-1861 AND 1862
12. COLLISION & RESTORATION LLC DBA FERNANDO'S AUTO, 07-R1D1-3226 THROUGH 3230
13. CUPERTINO ELECTRIC, INC., 07-R1D3-2096 THROUGH 2098
14. DH BUILDER'S INC., 08-R4D1-1887
15. DEPT. OF PARKS & RECREATION – TEHACHAPI DISTRICT, 08-R4D3-0606 AND 0607
16. DIVERSIFIED UTILITY SERVICES, 07-R2D5-0050
17. EL DON FARM CONTRACTING INC., 08-R6D5-1108
18. JUAN M. GALLEGOS, 08-R4D1-2804 AND 2805 AND 08-R4D1-4507

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19. GARFIELD HIGH SCHOOL / LAUSD, 08-R4D4-1059
20. GOLDEN BEAR PACKAGING INC., 08-R1D2-0263
21. GOMEZ ENTERPRISES, LLC, DBA A TO Z METALS, 08-R4D2-1891 AND 1892
22. HB PARKCO CONSTRUCTION, INC., 07-R4D2-5368 THROUGH 5369
23. HAWKEN DRYWALL INC., 07-R1D5-4321 AND 4322
24. HEATH WELDING, 08-R4D4-1767 AND 1768
25. ITX CONSTRUCTION CONSULTANTS INC., 08-R3D3-1150
26. INCLINE PAINTING, 08-R3D1-2106 THROUGH 2108
27. INTERSTATE BRANDS CORP., 06-R6D2-3810 THROUGH 3820
28. J.D. GROUP, INC., 07-R3D1-5175
29. JOE'S LAWN AND GARDEN SERVICES, 08-R2D2-2307 AND 2308
30. KENEFAKE PLASTERING, 08-R4D3-0755 THROUGH 0757
31. KENYON PLASTERING INC., 06-R1D3-4686
32. M & J FLC, 06-R2D5-5272
33. M.C.M CONSTRUCTION INC., 07-R1D4-4611
34. MAKPLATE, LLC, 08-R1D2-0518 THROUGH 0526
35. MANPOWER, 07-R4D3-5221
36. ANTONIO MEDINA, DBA ANTONIO TREE SERVICE, AKA MEDINA TREE SVC.,
08-R3D5-0994 AND 0995
37. MICHAEL B'S, 08-R3D5-0586 THROUGH 0590
38. MID CAL PLASTERING DBA QUALITY PLASTERING CORP., 07-R2D2-849
39. MILLER DIAL COMPANY, 08-R4D2-2415 THROUGH 2419
40. MISSION BELL MANUFACTURING INC., 08-R1D2-0660

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41. P.A.C. CONSTRUCTION SERVICES INC., 08-R4D3-0461
42. PALISADE BUILDERS INC., 07-R2D2-4122 AND 4123
43. PAMPANGA FOODS COMPANY INC., 08-R3D1-4038
44. PENNINGTON CONSTRUCTION, 08-R4D4-1752 AND 1753
45. PEP BOYS AUTO #968, 08-R2D2-044
46. PETCO ANIMAL SUPPLIES INC., 07-R1D1-4193
47. PETCO ANIMAL SUPPLIES INC., 08-R3D3-0835 AND 0836
48. PETERSON HOLDING CO., DBA PETERSON POWER SYSTEMS, 08-R1D4-0274
49. PIEDMONT LUMBER & MILLWORK, INC., 07-R1D2-1770
50. PLANT PERFORMANCE SERVICES, 08-R3D5-2862
51. POWER AIR CONDITIONING CO., 08-R3D5-1077
52. QUINN COMPANY INC., 08-R1D2-2848 THROUGH 2850
53. RTG MAINTENANCE, 07-R4D1-5203
54. RAAM CONSTRUCTION, INC., 08-R4D2-1103
55. RAYBERN QUALITY FOODS INC., 07-R1D4-4533 AND 4534
56. RIO BRAVO FRESNO, 08-R6D3-2543 AND 2544
57. RISCO, INC., 07-R6D2-5443 THROUGH 5446
58. RONCHIETTO, 08-RD3-0601
59. RUSTICA ARTS, INC., 07-R4D3-4733 THROUGH 4735
60. SACRAMENTO ENERGY, INC., 07-R2D1-0847
61. SAFEWAY INC., RICHMOND BREAD PLANT, 08-R2D2-0282 THROUGH 0285
62. SAN FRANCISCO WAR MEMORIAL AND PERFORMING ARTS CENTER,
07-R1D1-5263

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63. SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT,
08-R1D3-0528 AND 0529, AND 08-R1D3-4605
64. SAVANT CONSTRUCTION INC., 08-R3D3-0740
65. SPARTA, INC. DBA SPARTA COMPOSITE PRODUCTS,
08-R3D2-3893 THROUGH 3895
66. SPECK CAB CO. INC., DBA ARROW CAB, 08-R1D1-1187
67. TK PAX INC. DBA PAX INDUSTRIES, 08-R3D1-4037 AND 08-R3D1-4274
68. TECHARMONIC INCORPORATED, 08-R1D2-0123
69. UCSF-LANGLEY-PORTER PSYCHIATRIC INSTITUTE, 08-R1D1-0364
70. US GROWERS COLD STORAGE, INC., 08-R4D2-1893 THROUGH 1895
71. WEBCOR BUILDERS INC., 06-R1D1-3030 THROUGH 3032
72. WEYERHAUESER COMPANY, 08-R3D1-3892

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. CA CORRECTIONS CSP, 07, R2D1-9572
2. CALIFORNIA TREE RIPE, 08-R2D5-9432
3. DIAMOND REFERENCE, 08-R4D3-9438
4. DVPRO PAINTING, INC., 07-R1D5-9569
5. FOOTHILL CAR WASH, 08-R2D1-9430
6. DAVID R. GOOLER, 08-R4D2-9015
7. MACY'S, 08-R3D5-9436
8. MONTEBELLO FINANCIAL, 08-R3D6-9437
9. ORO LOMA RANCH, LLC, 07-R2D5-9575

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10. OLTMANS CONSTRUCTION CO., 08-R3D3-9435
11. PHO ANH DAO, 07-R2D1-9570
12. SOUTHERN CALIFORNIA EDISON, 08-R3D3-9062
13. STATE VALLEY FLC, 08-R2D5-9061
14. TRILAR MANAGEMENT GROUP, 08-R3D3-9040

ORDER DENYING LEAVE TO REOPEN OR PROCESS LATE APPEAL:

1. GEO GROUT, INC., 08-R2D2-9060

ORDERS DISMISSING APPEALS:

1. CAMPANILE II DBA CAMPANILE, 08-R6D2-9377
2. L & L HAWAIIAN BBQ, 08-R3D2-9370
3. CAY LUONG, 08-R4D2-9375
4. THE HOME DEPOT, 08-R3D3-9371
5. KING SCAFFOLDING, INC., 08-R1D1-9359
6. PACIFIC CREST PAINTING, INC., 07-R6D5-5452
7. SKY APPAREL, 07-R6D2-5090 THROUGH 5092
8. YU CHEUNG TAM DBA RED PEPPER RESTAURANT, 07-R2D2-2012

ORDER DISMISSING LATE APPEAL:

1. NDR INC., DBA GOLD RUSH AUTO SPA, 08-R2D1-9440

STIPULATIONS:

1. CANANDAIGUA WINE COMPANY, 03-R2D4-1564 AND 1565
2. ANTHONY GLADDNEY DBA MVP ENTERTAINMENT, 07-R5D2-2069 AND 2070
3. ROMIC ENVIRONMENTAL TECHNOLOGIES CORP., 07-R6D3-3409 AND 3410
4. PACIFIC COAST STEEL, 06-R1D5-4934 AND 4935

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. BLK INTERNATIONAL, INC., 08-R4D2-925 AND 926
2. C. A RASMUSSEN, INC., 08-R4D5-219 AND 220
3. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
4. DESSER TIRE AND RUBBER CO., INC., 08-R3D6-9373
5. DRILL TECH DRILLING & SHORING, INC., 08-R5D1-9355
6. SILVIO'S PHOTO WORKS, 08-R3D5-9259
7. TURNER BROADCASTING SYSTEM DBA VERY FUNNY PRODUCTIONS, INC.,
07-R4D1-5357
8. WM BUILDERS, 07-R3D2-5112

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. JAMES ROBERT & DON CLARK DBA CLARK PACIFIC, 06-R2D1-0023
2. NAPRODIS, INC., 08-R3D2-824 THROUGH 828

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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. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
11. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
12. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224
13. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
14. COX COMMUNICATIONS, 03-R3D2-1942
15. DADE BEHRING, 05-R2D1-2203
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. DO-ABLE PRODUCTS, 06-R6D2-2998 THROUGH 3007
20. DUKE PACIFIC, INC., 06-R3D3-5157 THROUGH 5177

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21. DYNALECTRIC, 03-R1D1-4101
22. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
23. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
24. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
25. FORTUNA IRON WORKS 06-R2D3-4222
26. G.T. ALDERMAN, INC., 05-R4D3-3513
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
33. HUSSMAN CORPORATION, 03-R3D1-2939
34. ILH CONSTRUCTION, 02-R1D1-4172
35. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
36. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
37. JENSEN PRECAST, 05-R2D1-2377
38. JOHN LAING HOMES, 04-R3D1-194 AND 195
39. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
40. KELLY SERVICES, INC., 06-R1D2-1024
41. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
42. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960

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43. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
44. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
45. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
46. O & M INDUSTRIES, 04-R1D5-1597
47. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
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
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. TEICHERT AGGREGATES, 04-R5D1-2982
58. TRIO METAL, 03-R4D4-317
59. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
60. UNITED PARCEL SERVICE, 07-R3D3-3322
61. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
62. 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)
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. WESTERN MILLING, 06 CE CG 04007(06-9039)

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.