

**State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA**

Government Code § 11126 (a), (c)(3), and (e)

for

Wednesday, June 3, 2009

10:00 a.m.

Sacramento, California,

West Covina, California

&

46 Blue Feather Court

Sacramento, CA 95834

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

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: May 22, 2009

RE: Closed Session of the Board to be held on June 3, 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.

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. PIEPER FINE WOODWORKS, 07-R4D1-4706

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. ABM INDUSTRIES, INC. DBA ABM JANITORIAL SERVICES, 08-R1D1-1281

AND 1282

2. ALL FAB SPECIALTIES, INC., 09-R6D2-1287 THROUGH 1290

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For June 3, 2009

Page 2

3. ALLIED MECHANICAL, DIV. OF TOWER INDUSTRIES, INC., 08-R3D3-2615
4. BRANDT COMPANY, 09-R3D2-1314 AND 1315
5. THE BRIAD GROUP LLC DBA TGI FRIDAY'S #1902, 09-R3D2-1439
6. CITY OF CARSON, 09-R3D5-0381
7. COAST COMMUNITY COLLEGE DISTRICT, 08-R3D1-4428
8. COAST ROOF CO., INC., 08-R3D5-2617
9. COMMERCIAL AND INDUSTRIAL ROOFING CO., INC., 09-R3D2-0242
10. CONSTRUCTION HOTLINE AND MANAGEMENT PARTNERS, INC., 09-R3D1-0488
11. DJO, LLC., 09-R3D2-0354 AND 0355
12. EAST PACKAGING COMPANY, 08-R4D4-2283 THROUGH 2287
13. THE EASTRIDGE GROUP STAFFING, INC. DBA EASTRIDGE LIGHT INDUSTRIAL, 08-R3D2-4464 AND 4465
14. ELBECO DBA TRANSCON MANUFACTURER, 09-R4D1-0125 THROUGH 0127
15. EL CAMINO PAVING, INC., 08-R1D2-0664 THROUGH 0666
16. EMPIRE FARM LABOR CONTRACTING, INC., 08-R6D5-3851
17. RANDALL L. EVANS DBA RL EVANS GENERAL CONTRACTING, 08-R1D4-2039
18. EXCEL AIR CORPORATION, 09-R3D2-1438
19. EXPRESS SERVICES, INC DBA EXPRESS PERSONNEL SERVICE, 08-R3D3-2616
20. FRESH START BAKERIES, INC., 08-R3D3-2483 THROUGH 2485
21. GOLD CREST, LLC, 08-R4D3-4047 THROUGH 4049

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For June 3, 2009

Page 3

22. GREKA OIL AND GAS, 08-R4D3-3655 AND 3656
23. GROPOWER, INC., 08-R3D3-2890 THROUGH 2893
24. THE HAUNTED HOTEL, INC., 09-R3D2-0562
25. HIGARD FARMS, 07-R2D5-1678 AND 1679
26. HIGH QUALITY DRYWALL, INC., 08-R3D2-3896 AND 3897
27. HOME RENTAL, 07-R2D5-1786
28. IMA MANAGEMENT, INC., 09-R3D2-0854
29. IMPERIAL IRRIGATION DISTRICT, 09-R3D2-0506
30. J & R LOGGING, INC., 08-R2D4-1583 AND 1584
31. J.E. CABINETS, INC., 08-R6D2-4649 THROUGH 4655
32. KBE, INC., 09-R6D2-1350 THROUGH 1356
33. KRAMER CARTON COMPANY, 08-R2D1-4388 AND 4389
34. LAKESIDE SPECIALIZED TRANSPORTATION, 08-R2D1-0024 AND 08-R2D1-0390
35. LEVAN INDUSTRIES DBA THE SUPREME BEAN, 08-R6D2-5125 THROUGH 5128
36. LUBECO, INC., 08-R3D5-2677
37. LUNDGREN CONSTRUCTION MANAGEMENT, INC., 08-R4D3-3942
38. MANHATTAN FOODS DBA MEADOW FARMS SAUSAGE CO., 09-R6D2-0431 THROUGH 0433
39. McCORMICK & SCHMICKS, 08-R2D1-0386
40. METAL CAST, INC., 08-R6D2-4968 THROUGH 4973
41. NORWALK INDUSTRIES, LP, 08-R3D2-4012 AND 4013

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For June 3, 2009

Page 4

42. OAKHURST BUILDERS, 08-R3D2-4068 AND 4069
43. THE OKONITE CO., 08-R4D5-3845 AND 3846
44. OSSUR, 08-R4D5-2018 THROUGH 2020
45. HECTOR PACHECO DBA P A D DEVELOPMENT, 09-R4D1-0456 AND 0457
46. PACIFIC COAST PRODUCERS, INC., 08-R2D1-0141 THROUGH 0143
47. PACIFIC STONE DESIGNS, 07-R4D2-1765 AND 1766
48. PRIMARY MECHANICAL, INC., 08-R3D2-5016 THROUGH 5019
49. PROFFER CONSTRUCTION, 09-R4D1-0318 THROUGH 0321
50. PROTRANSPORT-1, LLC, 08-R1D5-2172
51. ROBERTA'S LABOR CONTRACTING, INC., 08-R1D2-0792 THROUGH 0794
52. SAN DIEGO WILD ANIMAL PARK, 09-R3D2-0011
53. SAQ PALLETS, INC., 08-R4D1-5029 AND 5030
54. SCHAPER CONSTRUCTION, 09-R1D2-0577 THROUGH 0579
55. SENSIENT DEHYDRATED FLAVORS CO., 07-R2D4-4661 THROUGH 4663
56. SINGLE EAGLE, INC., DBA CONCRETE CONTRACTORS INTERSTATE, 08-R3D2-4952
57. SLIDE SYSTEMS, INC., 08-R6D2-4981 THROUGH 4984
58. JOSE SOTO, 08-R4D2-5042 THROUGH 5046
59. STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION, 08-R3D2-4291
60. J. O. STILES, INC., 09-R3D1-0597 AND 0598
61. SUN WORLD, LLC, 08-R4D3-4134
62. SUNSHINE PLASTICS CORP., 08-R4D4-4333 THROUGH 4335

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For June 3, 2009

Page 5

63. TALCO PLASTICS, INC., 08-R3D3-2515 THROUGH 2517
64. TRIPLE O CONSTRUCTION, 08-R6D5-4065 AND 4066
65. UNITED RIGGERS AND ERECTORS, INC., 08-R3D1-4689
66. UTILITY VAULT, INC., 07-R2D5-1539
67. VALLEY COVE RANCH, 07-R2D5-3316 AND 3317
68. WEATHERFORD U.S., L.P., 08-R6D4-5072 AND 5073
69. WEEKS WHOLESALE ROSE GROWER, 08-R4D3-1751 AND 08-R4D3-3086
THROUGH 3088
70. WEST COAST IRON, INC., 08-R3D2-3293 THROUGH 3295
71. WHIRLWIND CAR WASH, 07-R
2D5-3318 AND 3319

ORDER GRANTING APPEAL

1. E & H 126 INVESTMENT, INC., DBA KLASSIC CAR WASH & DETAIL
COMPANY, 08-R6D5-3994 AND 3995

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & 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. ALBERTO ARMENTA, 08-R3D1-1282 THROUGH 1284
2. CALIFORNIA DAIRIES, INC., 07-R6D2-2076 THROUGH 2081
3. COASTAL TREE SERVICE OF PAUL BUNYAN TREE COMPANY, 07-R1D2-
1896 AND 1897
4. GRIEF, INC., 09-R2D4-9094
5. UPS, 08-R3D3-2049 THROUGH 2051
6. WEBCOR CONSTRUCTION, LP DBA WEBCOR BUILDERS, 07-R1D1-5150

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For June 3, 2009
Page 6

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS)

1. ALMANOR MANUFACTURING, INC., 07-R2D3-0146 THROUGH 0148
7. MELMAT, INC., 07-R3D1-0733

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. AC TRANSIT, 08-R1D4-0135
4. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
5. AMISH COUNTY GAZEBOS, INC., 08-R6D2-227
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION,
7. ASC PROFILES, INC., 06-R2D1-1181
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
11. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
13. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
14. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
15. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
16. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
17. CALIFORNIA FRESH FARMS, 06-R2D4-4127

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For June 3, 2009

Page 7

18. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
19. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
20. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
21. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
22. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
23. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
24. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
25. DESIGN BUILDERS, INC., 08-R4D4-1901
26. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
27. DUKE PACIFIC, INC., 08-R3D3-574
28. DYNALECTRIC, 03-R1D1-4101
29. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
30. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
31. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
32. FORTUNA IRON WORKS 06-R2D3-4222
33. G.T. ALDERMAN, INC., 05-R4D3-3513
34. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
35. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
36. GLASS PAK, 03-R2D2-750 AND 751
37. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
38. HB PARKCO, 07-R4D2-1730 AND 1731
39. HELPMATES STAFFING SERVICES, 05-R3D3-2239
40. THE HERRICK CORP., 07-R3D1-495

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For June 3, 2009

Page 8

41. HUSSMAN CORPORATION, 03-R3D1-2939
42. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
43. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
44. JENSEN PRECAST, 05-R2D1-2377
45. JOHN LAING HOMES, 04-R3D1-194 AND 195
46. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
47. KELLY SERVICES, INC., 06-R1D2-1024
48. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
49. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
50. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
51. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
52. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
53. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
54. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
55. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
56. & M INDUSTRIES, 04-R1D5-1597
57. PMR RACE CARS, 03-R3D3-1825
58. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
59. R & L BROSAMER, INC., 03-R1D5-4832
60. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
61. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
62. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
63. STACY & WITBECK, INC., 05-R1D1-1142

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For June 3, 2009
Page 9

64. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
65. DAVID STOUPAKAS DBA DEVORE TRUCKING & AUTO WRECKING, 07-
R3D3-5185 AND 5186
66. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
67. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
68. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
69. TEICHERT AGGREGATES, 04-R5D1-2982
70. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH
4980
71. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
72. UNITED PARCEL SERVICE, 07-R3D3-3322
73. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
74. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

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. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For June 3, 2009

Page 10

2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
3. J.F. SHEA CONSTRUCTION, INC. (DOSH v OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
8. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
9. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
10. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
11. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
12. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
13. SOUTHERN CALIFORNIA EDISON COMPANY v CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
14. KFM AND DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, RG 09442652 (06-2452)

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.)*

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For June 3, 2009
Page 11

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