

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, January 17, 2007
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: January 5, 2007

RE: Closed Session of the Board on January 17, 2007

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. 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. CONOCO PHILLIPS, 06-R3D5-753
2. EPS, INC. dba EXPRESS PLUMBING, 04-R1D1-2154 AND 2155
3. HAYES GRADING, INC., 06-R4D1-835
4. HEMAN G. STARK YOUTH CORRECTIONAL FACILITY, 05-R3D3-2672 AND 2673
5. INDUSTRY COLOR PRINTING, INC., 05-R4D3-3377 THROUGH 3382
6. JCT COMPANY, INC., 03-R4D3-4229 THROUGH 4233
7. PACE SUPPLY CORP., 05-R1D5-1759

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

For January 17, 2007

Page 2

8. PARTY TIME ICE, 04-R3D5-489 THROUGH 491
9. SUN SYSTEMS ROOFING, 05-R4D1-109 AND 110
10. VALLEY FRESH INC., 05-R2D4-3596 THROUGH 3598

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. AKHOIAN ENTERPRISES, INC. dba MR. ROOTER, 05-R4D3-1484 THROUGH 1486
2. AMRO FABRICATING CORP., 05-R4D4-3045 AND 3046
3. ANVIL STEEL, 04-R4D3-172 THROUGH 174
4. APPLIED LATH & PLASTER, INC., 05-R3D3-2946 THROUGH 2949
5. ASHLEY FURNITURE, 06-R3D3-2240
6. ATHAN MAGGANAS, 04-R1D4-515 THROUGH 519
7. ATHAN MAGGANAS, 04-R1D4-520 AND 521
8. ATHAN MAGGANAS, 05-R1D4-3912
9. AVALON EMPLOYMENT RESOURCES, 04-R4D2-1321
10. BLUE COP, INC., 05-R4D1-1185
11. BOMEL CONSTRUCTION CO., INC., 05-R4D4-1489 AND 1490
12. CMI FREIGHT & TRANSPORT, 05-R4D2-4431 AND 4432
13. CABRERA PLASTERING, 03-R6D2-5230 THROUGH 5235
14. CALIFORNIA CASCADE FONTANA, INC., 05-R3D3-1328 AND 1329
15. CAR SOUND EXHAUST SYSTEM, INC., 04-R3D1-3578 THROUGH 3580
16. COCKRELL ELECTRIC, INC., 05-R3D3-2944 AND 2945

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

For January 17, 2007

Page 3

17. CORRECTIONAL TRAINING FACILITY, 04-R1D2-2309 THROUGH 2313
18. DEARDORFF-JACKSON CO., 06-R3D5-1447 AND 1448
19. ECKERT COLD STORAGE, 05-R2D4-778 THROUGH 780
20. EVERGREEN AT OROVILLE LLC dba OLIVE CARE CENTER, 06-R2D3-2172
21. G & M PLASTERING, INC., 04-R4D1-411 AND 412
22. GAIL MATERIALS, 05-R3D1-447
23. J. MCLOUGHLIN ENGINEERING CO., INC., 06-R3D3-3160 THROUGH 3162
24. JOHNSTON CONTRACTING, INC., 06-R2D5-3113
25. JOXER DALY'S PUB, 05-R4D1-2691 AND 2692
26. KEN THOMPSON, INC., 05-R5D2-3388
27. LA CITY HYPERION WATER TREATMENT PLANT, 04-R4D1-1687 AND 1688
28. LEE'S IMPERIAL WELDING, 05-R1D4-703 AND 704
29. MCMAHANS FURNITURE STORES, 06-R2D3-2176
30. NISSIN FOODS USA CO., INC., 06-R4D1-3668
31. NORTHERN DISTRIBUTOR, 04-R2D4-010 THROUGH 013
32. PWP INDUSTRIES, 06-R4D2-2937
33. PACIFIC GAS & ELECTRIC CORPORATION, 05-R2D1-1867
34. PACIFIC PIMA GIN INC., 06-R2D5-2200
35. PACIFIC PIZZA, INC. dba ROUND TABLE PIZZA, 04-R2D4-2678
36. PADUA GLASS ENTERPRISES INC., 04-R4D3-1473 AND 1474
37. PREFERRED FRAMING, INC., 04-R6D2-501
38. PRIMARY STEEL, 04-R4D4-4105
39. QUALITY PLASTERING, 05-R3D1-446

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

For January 17, 2007

Page 4

40. RELIZON CO., 03-R3D3-4919 THROUGH 4923
41. REYES MASONRY CONTRACTORS, INC., 04-R4D3-1199 AND 1200
42. RHINO LININGS, 05-R3D2-3743
43. ROBERTSON'S READY MIX CONCRETE, 04-R4D1-2107 THROUGH 2110
44. ROEJACK ROOFING, INC., 06-R3D2-809
45. SAN BERNARDINO COUNTY WORKFORCE DEVELOPMENT
DEPARTMENT, 06-R3D3-566 AND 567
46. SCHMID BUILDING PRODUCTS, 03-R3D2-4338 AND 4339
47. SELECT PERSONNEL SERVICES, 04-R4D3-1190
48. SELINSTAFAB INC., 06-R3D3-3658 THROUGH 3663
49. SILGAN CONTAINER CORPORATION, 06-R2D4-2181 AND 2182
50. SNYDER ROOFING & SHEET METAL, INC., 04-R4D2-165 AND 166
51. STATE OF CA - DEPT. OF CORRECTIONS, 04-R4D5-3071
52. STATE OF CALIFORNIA DEPT. OF TRANSPORTATION, 04-R4D2-49
53. SUNWEST FRUIT COMPANY, INC., 04-R2D7-4043 THROUGH 4050
54. SUSHI KING, 06-R1D1-406 THROUGH 409
55. TN SHEET METAL, INC., 04-R6D2-1394 AND 1395
56. TEKNOR-APEX, 05-R4D4-3798
57. THAI FASHION, INC., 06-R3D5-2801 THROUGH 2803
58. 24-HOUR FITNESS, INC., 05-R1D4-187 AND 188
59. UNITED CALIFORNIA BUILDER, 04-R4D3-2234 AND 2235
60. UNITED PARCEL SERVICE INC. dba UPS COLUSA SATELLITE, 06-R2D3-
2171
61. VECTOR RESOURCES INC., 05-R4D1-1022 AND 1023

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For January 17, 2007
Page 5

62. XCEL RACK CONTRATORS, 06-R2D4-2178

ORDERS DENYING LATE APPEAL:

1. A U S DECKING, INC., 06-R1D4-9249
2. NICOLAS DEL VILLAR, 06-R3D3-9254 AND 9255
3. TOLEDOS MEXICAN RESTAURANT, 06-R2D5-9250 THROUGH 9252
4. UNICON DEVELOPMENT, INC., 06-R4D4-9253
5. UNITED AIRLINES, 06-R2D1-9247
6. VENDMART, INC., 06-R2D1-9248

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. BENITO VELEZ CARRILLO dba E C LABOR, 06-R3D2-9256
2. DECORMAX, INC., 06-R1D1-9262 THROUGH 9264
3. EL CARIBBEAN RESTAURANT, 06-R4D4-9260 AND 9261
4. ERNIE'S BAR AND GRILL, 06-R1D2-9265
5. DOUGLASS HATWIG, 06-R1D4-9258
6. 99 CENT ONLY STORES, 06-R2D1-9257
7. SBC, 06-R2D1-9274
8. ESAU SANCHEZ dba ESAU ENTERPRISES, 06-R4D4-9266 THROUGH 9273

ORDERS DISMISSING APPEALS:

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

1. AMERIPRIDE UNIFORM, 04-R4D2-106 AND 107
2. CAT/FIRSTLINER, 03-R3D2-1210
3. COACHES CONSTRUCTION, 04-R3D2-2562 AND 2563

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

For January 17, 2007

Page 6

4. GOLDEN STATE SCAFFOLDING, INC., 04-R1D1-2299
5. LEDUC & DEXTER, INC. dba SUPER SERVICE PLUMBING, 05-R1D5-2077
6. DARREL RICHARDS dba RICHARDS CONCRETE CONSTRUCTION, 04-R1D5-3030
7. TURNER BROTHERS, 05-R1D5-1260
8. VIDEO ONLY, INC., 06-R1D3-770

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. NATIONAL DIVERSIFIED SALES, 06-R2D5-9243
2. OAKMONT HOLDINGS dba ELEGANT SURFACES, 04-R2D1-1941
3. STACY AND WITTBECK, INC., 05-R1D1-1142
4. TLC BACKHOE SERVICES, 06-R4D3-9231 THROUGH 9233

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. FIBERINE G.V.M.R., INC., 06-R3D5-9154
2. GANA STEEL, 04-R3D1-1608 AND 1609
3. KOOSHAREN CORP. dba SELECT PERSONNEL SERVICES, 04-R1D4-855 AND 856

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. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ACTION: Returned from January 3, 2007 Board meeting for further discussion, review and action.

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

For January 17, 2007

Page 7

2. UNITED AIRLINES, 00-R1D5-2844
ACTION: This matter will be reviewed and discussed
3. SAM AND ED ABUATIEH dba STEREO 1, 04-R4D4-2441 AND 2442
4. AC FRAMERS INC., 03-R2D3-3475
5. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
6. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
7. BLUE DIAMOND MATERIALS, 02-R5D2-1268
8. BRYDENSCOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
9. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
10. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
11. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
12. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
13. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
14. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
15. GLASS PAK, 03-R2D2-0750 AND 0751
16. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
17. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
18. HELPMATES STAFFING SERVICES, 05-R3D3-2239
19. HUSSMAN CORPORATION, 03-R3D1-2939
20. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
21. IRBY CONSTRUCTION, 03-R3D3-2728
22. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
23. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323

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

For January 17, 2007

Page 8

24. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
25. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
26. LONG BEACH CITY COLLEGE, 03-R3D5-2747
27. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
28. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
29. McDONALDS #10660, 03-R1D3-4116 & 4117
30. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
31. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
32. O & M INDUSTRIES, 04-R1D5-1597
33. PMR RACE CARS, 03-R3D3-1824 & 1825
34. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
35. RII PLASTERING INC., 02-R3D1-2679
36. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
37. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
38. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
39. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
40. THE GENE SCHICK COMPANY, 05-R1D4-0937
41. TRIO METAL, 03-R4D4-0316 & 0317
42. WESTERN DOOR, 01-R3D1-2827
43. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018
44. X-ACT FINISH & TRIM, INC., 06-R3D1-9114

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

For January 17, 2007

Page 9

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. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. BLF FRAMING, INC., 04CS01618 (02-1837/38)
3. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560

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.)

1. RALPH OPFER FLOORING, 04-R2D1-601 AND 602

PERSONNEL *(Issues regarding staff.)*

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