

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, January 31, 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 19, 2007

RE: Closed Session of the Board on January 31, 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. A V PALLET CO, 05-R4D1-455 THROUGH 460
2. AIR SYSTEMS, INC., 05-R1D4-938 AND 939
3. APOLLO ELECTRIC, 04-R4D1-425 THROUGH 427
4. AUTHENTIC RESTORATION & WATERPROOFING, INC., 04-R1D1-4346
5. D & J PLUMBING, 04-R2D5-859
6. PACIFIC MDF PRODUCTS, INC., 03-R2D1-4313
7. R M 3 BUILDING & DEVELOPMENT, INC., 05-R3D3-2328 AND 2329
8. SAFEWAY #951, 05-R1D4-1410

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9. SHEA KENNY JV, 05-R5D3-1053
10. SHIMMICK OBAYASHI, 03-R1D1-725 THROUGH 728
11. WARDLEY INDUSTRIAL, INC., 05-R2D4-1073 AND 1074

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. ABC SHEET METAL, 05-R3D1-3610 THROUGH 3615
2. ABP CONSTRUCTION, 05-R4D4-473 THROUGH 476
3. ACME BREAD COMPANY, 06-R6D1-2917 AND 2918
4. ADECCO EMPLOYMENT, 05-R4D4-3810 THROUGH 3812
5. ADRIENNES GOURMET FOODS, INC., 06-R4D3-1653 AND 1654
6. ALBERTSON'S MARKET #6542, 06-R3D3-3756
7. ALMAC FELT COMPANY, 06-R3D3-561 THROUGH 565
8. AMERICAN SHEET METAL, 04-R3D1-3746 THROUGH 3748
9. AMPAM PARKS MECHANICAL, INC., 06-R3D5-2795 AND 2796
10. APPROVED TREE CARE, 04-R3D1-3832 THROUGH 3835
11. BALDWIN CONSTRUCTION, 05-R2D3-1296 THROUGH 1298
12. BALDWIN CONSTRUCTION, 05-R2D3-1299
13. BERGER BROS., INC., 06-R1D1-2448
14. BIG WEST OF CALIFORNIA, LLC, 06-R3D7-2294 AND 2295
15. BURTECH PIPELINE, 06-R3D2-2587
16. CENTRAL VALLEY PAINTING, INC., 04-R2D4-4521 AND 4522

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17. DAN CHAMLEE, 06-R4D3-172 AND 173
18. COLD STORAGE TECHNOLOGIES, INC., 04-R2D7-3293 AND 3294
19. COSTCO WHOLESALE MEATS, 06-R2D7-3897
20. COVALENCE PLASTIC, 06-R4D4-4300 THROUGH 4303
21. CUSTOM BUILDING PRODUCTS, 06-R2D4-1807 AND 1808
22. CUTTING EDGE CONCRETE CUTTING, 06-R4D3-2355
23. DAN J. GRAY CONSTRUCTION, 06-R2D4-2733
24. DYNACON, 04-R3D4-4235
25. EL DORADO TRUSS CO., INC., 04-R2D1-953
26. ENGINEERED POLYMER SOLUTIONS, INC., 06-R3D7-580
27. ENVIRON (WESLEY BURNETT), 99-R3D1-1896 THROUGH 1897
28. EZ ROTH PLUMBING & HEATING, 05-R4D2-4151 THROUGH 4153
29. FAGUNDES AGRIBUSINESS, 06-R2D5-1994
30. FLEETWOOD ALUMINUM PRODUCTS, INC., 06-R6D2-2919 THROUGH 2923
31. FORECAST HOMES, 06-R3D3-1848
32. FREUND BAKING, 06-R4D2-1316 AND 1317
33. FRUITRIDGE PRINTING & LITHOGRAPH, INC., 05-R2D1-957 AND 958
34. GNDJ, INC. dba REDDING INN, 05-R2D3-3926 THROUGH 3928
35. GERRY SMITH MASONRY INC., 06-R2D1-4005
36. GOGLANIAN BAKERY, 04-R6D2-1249 AND 1250
37. GOLD COUNTRY FOODS dba TACO BELL #2629, 06-R2D1-1756
38. GOLDEN GATE LITHO, INC., 04-R1D4-76 AND 77
39. HOME DEPOT, 05-R2D4-197 AND 198

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40. IMPACT FINISHING, INC., 06-R2D5-3115
41. INK SPOTS, 06-R4D2-2339 AND 2340
42. INTERNATIONAL MEDICATION SYSTEMS UNLIMITED, 06-R4D4-2873 THROUGH 2876
43. INTERSTATE BRANDS CORP. dba MILLBROOK CO., 03-R6D2-853 THROUGH 861
44. JC FUMIGATION, INC., 06-R4D3-973, 06-R4D3-1323
45. JRS GENERAL ENGINEERING, 06-R2D1-4016
46. J.R. STUDIOS, 04-R4D3-757 AND 758
47. JAM N LOGISTICS, 06-R4D2-595 AND 596
48. JOSE CABRERA FARM LABOR CONTRACTOR, 06-R2D4-3105
49. KEVIN D. WOODY LANDSCAPE MAINTENANCE, INC., 06-R2D1-4013
50. KRAZAN & ASSOCIATES, INC., 06-R3D3-535 THROUGH 537
51. LA BELLA PIZZA GARDEN, 06-R3D2-818 THROUGH 820
52. LA COUNTY SANITATION, 06-R4D2-1875 THROUGH 1877
53. LALO FASHION INC., 06-R4D1-2038 AND 2039
54. CITY OF LONG BEACH PARKS, REC & MARINE, 06-R3D5-1853
55. LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, 06-R4D2-1306
56. MANUEL BROTHERS, INC., 06-R2D1-3872
57. MARTINEZ & TUREK, INC., 04-R3D3-1859 THROUGH 1862
58. MAXIM CRANE WORKS, 06-R3D1-933
59. METRO TRUCK BODY, INC., 05-R3D5-652 AND 653
60. MEZZETTA, 03-R6D1-4800 THROUGH 4802
61. MITCHELL ENVIRONMENTAL CONCRETE, INC., 06-R4D1-2818

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62. MORNINGSTAR FOODS, 05-R4D4-1222
63. NICHOLAS LANE CONTRACTORS, INC., 06-R3D1-2209 AND 2210
64. OPEN HAND MANUFACTURING, 04-R6D1-3432 AND 3433
65. ORANGE COUNTY PLASTERING CO., INC., 06-R3D5-2794
66. ORCHARD SUPPLY & HARDWARE, 06-R4D2-1633
67. PACIFIC BULLETPROOF, INC., 05-R3D1-1921
68. PACIFIC EMPLOYERS ORGANIZATION, INC., 05-R3D5-3980
69. PACIFIC STATES INDUSTRIES/REDWOOD EMPIRE WHOLESALE, 03-R1D2-5213 AND 5214
70. PALM SPRINGS DISPOSAL SERVICES, INC., 04-R3D3-1318
71. PENINSULA OPHTHAMOLOGY GROUP, 06-R1D3-3999 AND 4000
72. PENNINE PLUMBING, 04-R3D1-4179
73. PETCO INC., 06-R3D5-4555 AND 4556
74. PIER 1 IMPORTS, 06-R3D3-1439
75. PIONEER TRADING, INC. dba OMNI FOODS MANUFACTURER, 05-R4D4-4641 THROUGH 4643
76. PODESTA PACKING, 06-R2D4-2740 AND 2741
77. PRIME LABOR & STAFFING, 05-R2D5-4202
78. PROULX MANUFACTURING, 06-R3D3-246 THROUGH 249
79. PYR ENTERPRISES, INC., 05-R4D1-1641
80. R C SEHNERT INC., 06-R3D5-3915 THROUGH 3917
81. R.E. SMITH, 06-R2D4-2731 AND 2732
82. RMR PRODUCTS, 04-R4D3-421 THROUGH 423
83. RTS PACKAGING LLC, 04-R6D2-2005 THROUGH 2015

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84. RAINBOW AUTO BODY, 04-R4D1-2102 AND 2103
85. RHEODYNE LLC, 06-R1D5-4003
86. JAMES ORVA RICHARDS dba J.R. CONSTRUCTION, 06-R2D1-4004
87. RIVER CITY CONNECTIONS, 05-R2D1-75 THROUGH 77
88. ROBERTSON'S READY MIX CONCRETE, 04-R4D1-2107 AND 2110
89. JOSEPH ROSSI JR. dba ROSSI DEVELOPMENT, ROSSI COMM, 06-R1D5-1255 AND 1256
90. S & H FARM LABOR, 06-R2D5-908
91. CITY OF SACRAMENTO-SOLID WASTE, 06-R2D1-2159 THROUGH 2161
92. SAN FRANCISCO FOODS, 04-R6D1-3495 AND 3496
93. SCORPION BACKHOE INC., 06-R3D3-3907
94. SELECT PERSONNEL SERVICES, 05-R4D2-2127
95. SENTRY ROOFING CO., INC., 05-R2D2-4525
96. SONORAN ROOFING INC., 05-R2D1-873
97. STOUT ROOF COMPANY, 05-R3D3-4120
98. SWINERTON BUILDERS, 06-R1D2-2645
99. SWINERTON BUILDERS, 06-R1D2-3699
100. TLD ACQUISITIONS COMPANY, LLC dba TLD DISTRIBUTION, 06-R4D2-2332 THROUGH 2334
101. THOMPSON PACIFIC CONSTRUCTION, INC., 04-R6D1-3535
102. TREE ISLAND WIRE USA, INC., 06-R4D4-2498 AND 2499
103. TRI-TECHNIC, 06-R2D4-2729 AND 2730
104. TRIUMPH CONSTRUCTION INC., 04-R4D1-1176 THROUGH 1180
105. TROJAN COMMERCIAL PRINTING, 06-R3D1-2213 AND 2214

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106. U.C. PLASTICS MFG. INC., 05-R1D4-1412 THROUGH 1416
107. U PICK U SAVE, 06-R6D2-1959 THROUGH 1966
108. VANCE BROWN BUILDERS, 03-R1D3-4783 AND 4784
109. VITESSE RECRUITING & STAFFING, INC., 06-R3D1-2008
110. VONS BAKERY, 06-R4D2-1307 AND 1308
111. VULCAN, 06-R5D2-3471
112. W.L. BUTLER CONSTRUCTION, INC., 06-R1D2-771
113. WALTON MOTORS & CONTROLS INC, 06-R4D4-4386 THROUGH 4388
114. WATERLINE TECHNOLOGIES, 05-R3D1-3130 THROUGH 3131
115. WESTERN CONVEYOR SYSTEMS, 04-R3D3-3331, 3332 AND 3337
116. WOODS EQUIPMENT COMPANY, 06-R4D4-3525 AND 3526
117. XTREME METAL FABRICATION, INC dba GO RHINO PRODUCTS, 06-R6D2-3968 THROUGH 3972
118. YEAGER SKANSKA, INC., 06-R4D4-974
119. YOUNGDALE'S, INC., 06-R2D4-2468
120. DANIEL ZAHR & HENRIETTA BAISSARI dba D. D. COMPANY, 06-R4D1-2489 AND 2490

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. CA CORRECTIONS, 07-R2D5-9008
2. DON JOSE MEXICAN RESTAURANT, 07-R2D5-9006 AND 9007
3. GANA STEEL, INC., 07-R4D1-9001 THROUGH 9003
4. HOYA VISION CARE, 07-R3D2-9004
5. INDEPENDENT STAFFING SOLUTIONS, 07-R3D5-9005

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ORDERS DISMISSING APPEALS:

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

1. BETTS SPRING COMPANY, 05-R6D1-407 THROUGH 421
2. E.G. SCAFFOLDING, 05-R1D1-064 THROUGH 067
3. FACTORY 2-U STORES, 04-R2D1-1730
4. HAMMERMILL MANUFACTURING, INC., 04-R6D2-443 THROUGH 452
5. HOLMBERG ROOFING, 03-R1D5-4722
6. DAVID C. MARDEN dba MARDEN CONSTRUCTION CO., 05-R1D5-3261
7. SCOTT BALMER CONSTRUCTION, 04-R2D1-3098 AND 3099

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. ALCO IRON & METAL COMPANY, 04-R2D2-4270
2. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
3. EXPRESS SERVICES GROUP, 06-R4D3-9227
4. WEST COAST LINEN & SUPPLY, 06-R2D5-9237 THROUGH 9240

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. NATIONAL DIVERSIFIED SALES, 06-R2D5-9243
2. OAKMONT HOLDINGS DBA ELEGANT SURFACES, 04-R2D1-1941
3. TLC BACKHOE SERVICES, 06-R4D3-9231 THROUGH 9233

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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. UNITED AIRLINES, 00-R1D5-2844
ACTION: This matter will be reviewed and discussed.
2. SAM AND ED ABUATIEH dba STEREO 1, 04-R4D4-2441 AND 2442
3. AC FRAMERS INC., 03-R2D3-3475
4. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
5. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
6. BLUE DIAMOND MATERIALS, 02-R5D2-1268
7. BRYDENSCOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
8. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
9. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
10. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
11. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
12. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
13. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
14. GLASS PAK, 03-R2D2-0750 AND 0751
15. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
16. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
17. HELPMATES STAFFING SERVICES, 05-R3D3-2239
18. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
19. HUSSMAN CORPORATION, 03-R3D1-2939
20. ILH CONSTRUCTION, 02-R1D1-4171 & 4172

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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
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

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44. X-ACT FINISH & TRIM, INC., 06-R3D1-9114

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.)

PERSONNEL *(Issues regarding staff.)*

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