

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, October 5, 2011
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: September 22, 2011

RE: Closed Session of the Board to be held on October 5, 2011

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. FLATIRON CONSTRUCTION CORP., 10-R4D1-2789
2. IGNAZIO MARIN MONDRAGON DBA CREMONA VIOLIN DEALERS & MAKERS, 10-R1D1-0938
3. ORGANIC MILLING ACQUISITIONS LLC, 11-R3D6-0268 AND 0269
4. RALPH RAMIREZ DBA R. RAMIREZ STRAWBERRIES, 09-R1D2-3545 AND 3546
5. STANFORD SIGN & AWNING, INC., 10-R6D2-1782 THROUGH 1788

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.)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 2

1. 3 J'S CONSTRUCTION, 10-R4D1-4024 AND 4025
2. AGED TIMBER CO., INC., 11-R4D3-0426
3. ANGELO'S PIZZARIA, INC., 11-R3D6-1346
4. APPLIED COATING & LININGS, INC., 11-R6D2-1562
5. AYALA BORING, INC., 11-R5D2-0464
6. CITY OF IRVINE, IRVINE POLICE, 11-R3D1-0546
7. CITY OF MILLBRAE, 10-R1D3-1273 AND 1274
8. COMPANY, 10-R4D1-3488
9. CONSOLIDATED PRECISION PRODUCTS, 11-R3D6-0024
10. DANIELS TIRE SERVICE, 11-R3D6-1199 AND 1200
11. DAVIS CONSTRUCTION PLUMBING, INC., 10-R4D1-3762
12. DRAEGER CONSTRUCTION, 11-R3D1-0532
13. E AND B FOODS, INC., A AND E RESTAURANT, 11-R6D5-2154 AND 2155
14. EL MONTE RENTS, INC. DBA EL MONTE RV, 11-R1D4-1100 AND 1101
15. FISHER SCIENTIFIC COMPANY LLC, 11-R3D3-1932
16. GALT, CITY OF – WASTEWATER TREATMENT PLANT, 11-R6D3-1439 AND 1440
17. GARCIA JUAREZ CONSTRUCTION, 10-R3D6-4071
18. GIDLEY SCHOOL, 11-R3D6-0812
19. GOODWILL INDUSTRIES OF ORANGE COUNTY, 11-R6D2-1708 THROUGH 1711
20. ANTHONY AND MARIO JAQUES DBA JAQUES BROS. FRAMING, 10-R6D7-3688
21. JOYFUL FARM, INC., 10-R6D5-2990

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 3

22. M & J PALLET, INC., 10-R6D5-3311 THROUGH 3313
23. M & M PRINTED BAG, INC., 11-R3D3-1344
24. MMI SERVICES, INC., 10-R4D3-3990
25. MORRIS NATIONAL, INC., 11-R3D6-0270 THROUGH 0273
26. NEW WORLD PASTA COMPANY, 10-R2D5-0903 AND 0904
27. ORTIZ CORP., 11-R3D2-2153
28. PACIFIC COAST STEEL, 11-R6D2-1625 AND 1626
29. PACIFIC VIAL MANUFACTURING, INC., 10-R6D2-3680
30. PERFORMANCE ABATEMENT SERVICES, INC., 09-R6D3-2525 THROUGH 2528
31. PLASTICOLOR MOLDED PRODUCTS, INC., 11-R3D1-0654
32. POWERFUL PEST MANAGEMENT, 11-R3D3-1511
33. PROVIDIAN STAFFING CORPORATION, 11-R3D3-1608
34. REALM CATALYST, INC., 10-R4D3-4115 THROUGH 4117
35. DIMAS SAMUEL ROMERO DBA LIDIA'S FASHION, 11-R6D5-2016
36. ROSS PLASTERING, INC., 09-R1D4-1894
37. SACRAMENTO AREA BUILDERS, 09-R6D7-3998 THROUGH 4000
38. SAN DIEGO WATER DEPT./MIRAMAR, 10-R6D4-3801 AND 3802
39. SANTA CRUZ SEASIDE COMPANY, 10-R1D2-1618
40. SOCIAL VOCATIONAL SERVICES, INC., 11-R3D6-1450
41. SPAN CONSTRUCTION & ENGINEERING, INC., 10-R1D3-0148
42. THE WALT DISNEY COMPANY DBA ABC STUDIOS, 10-R4D1-3836 THROUGH 3838
43. VENTURA CO. MEDICAL CENTER - HILLMONT PSYCHIATRIC CENTER, 11-R4D3-1131

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 4**

44. WEISS INVESTMENT GROUP, INC., 11-R5D2-0856
45. WESTERN EXTERMINATOR CO., 11-R3D1-1771 THROUGH 1773
46. WESTERN STATES CONSTRUCTION, INC., 11-R3D1-0622 AND 0623
47. J. J. WINTERSTEEN, 11-R1D1-1259
48. YOUNG YI FASHION, INC., 11-R6D5-1474 THROUGH 1476
49. YSL APPAREL, INC., 11-R6D5-1761
50. MANDY ZHOU DBA JIN JIN NOODLE FACTORY, 10-R2D1-1201
THROUGH 1203

ORDERS DISMISSING APPEALS:

1. BERBERIAN DESIGN, INC. DBA BERBERIAN KITCHEN & BATH,
10-R6D2-2693 THROUGH 2700
2. NATIONAL METAL FABRICATION, INC., 10-R6D2-3342 THROUGH 3344

ORDER GRANTING LATE APPEAL:

1. BLESSING & HARVEY PROFESSIONAL SERVICES, INC., 11-R2D2-2332

ORDER DENYING LATE APPEAL:

1. LOS ANGELES DYE & WASH CO., 11-R6D2-9155

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. GERARDO VILLALOBOS ET AL DBA LOS TORILES, 11-R6D7-9134
2. GUILLAUME GRAPEVINE NURSERY, INC., 08-R2D1-3273
3. HYDROSCIENCE OPERATIONS, INC., 10-R1D2-0389

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 5

1. BILL NELSON GENERAL ENGINEERING, INC., 09-R2D5-3769 AND 3770
2. CA – PRISON INDUSTRY AUTHORITY, 09-R1D5-2459 THROUGH 2461
3. ST. JOSEPH HEALTH SYSTEM – SONOMA COUNTY, 10-R1D5-1327

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 PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
7. ANNING-JOHNSON COMPANY, 06-R1D3-1976
8. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
9. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
10. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO.,
09-R6D2-2239 THROUGH 2241
11. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
12. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
13. BURTON L. SILVA FARMS, 09-R1D2-1498
14. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
15. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
16. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
17. CA RASMUSSEN, INC., 08-R4D5-219 AND 220

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 6

18. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
19. SILVIA CASTRO, MIGUEL CASTRO DBA SILVIA CASTRO FLC,
09-R2D4-1900
20. CITY OF FOSTER CITY, DEPT. OF PUBLIC WORKS, 09-R1D3-4195
21. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
22. CLINE CELLARS, INC., 08-R1D5-2946
23. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR
08-R6D5-3466 AND 3467
24. COMMERCIAL METAL FORMING, 09-R3D1-1592
25. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
26. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
27. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
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. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
35. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
36. EZ MIX, INC., 08-R4D3-1898
37. FORTUNA IRON WORKS 06-R2D3-4222
38. G. T. ALDERMAN, INC. 05-R4D3-3513
39. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 7

40. HB PARKCO, 07-R4D2-1730 AND 1731
41. THE HERRICK CORP., 07-R3D1-495
42. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
43. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
44. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
45. JENSEN PRECAST, 05-R2D1-2377
46. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
47. KELSO'S AUTO DISMANTLING AND AUTO SALES, 10-R2D4-0165
48. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
49. L & S CONSTRUCTION, 10-R3D2-1822
50. LA MINA CANTINA, 09-R2D5-0039
51. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
52. LAST CHANCE, INC. DBA A STAR RECYCLING, 10-R4D3-3468 AND 3469
53. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
54. LION RAISINS, INC., 08-R2D5-2253 AND 2254
55. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
56. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
57. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
58. MARINE TERMINALS, 08-08-R6D2-1920
59. MCM CONSTRUCTION, INC., 10-R4D3-2498 THROUGH 2500
60. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
61. MILLENIUM GENERATION, INC., 08-R4D3-5047
62. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 8

63. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
64. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
65. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
66. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
67. P G & E CORPORATION DBA PACIFIC GAS & ELECTRIC CO., 11-R4D3-9132
68. POUK & STEINLE, INC., 09-R3D3-0491
69. QYCELL CORPORATION, 11-R3D3-1575 AND 1576
70. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
71. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
72. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
73. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
74. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
75. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
76. SMUD, 08-R2D1-4887 THROUGH 4889
77. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
78. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
79. SONORA REGIONAL MEDICAL CENTER, 10-R2D4-0162
80. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
81. SUNOPTA FRUIT GROUP, 09-R3D1-9245
82. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
83. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
84. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 9

85. UNITED PARCEL SERVICE, 07-R3D3-3322
86. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
87. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710
88. WINDSOR CHICO CREEK CARE AND REHABILITATION CENTER LLC,
10-R2D1-0263

OTHER BOARD PROCEEDINGS:

1. BIMBO BAKERIES USA, INC., 10-R6D2-1102 THROUGH 1106

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. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB)
(00-440)
5. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
6. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
7. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
8. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
9. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
10. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For October 5, 2011
Page 10

11. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
12. SMUD, 34-2010-80000723 (08-R2D1-4887)
13. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
14. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)

COURT OF APPEAL

1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

PERSONNEL:

(Issues regarding staff)

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