

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c), (3), and (e)
for
Wednesday, July 3, 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: June 22, 2007

RE: Closed Session of the Board on July 3, 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. EDGAR ALVARADO, SR., 06-R3D5-2478 THROUGH 2480 (6/11/2007)
2. CHOOIJIAN BROTHERS PACKING CO., 05-R2D5-984 (6/15/2007)
3. CLEAN CUT TREE SERVICE, 05-R3D2-793 THROUGH 796 (6/18/2007)
4. EL INDIO TORTILLERIA, 04-R3D1-4174 AND 4175, (6/6/2007)
5. PREFERRED FRAMING, INC., 04-R3D3-3752 AND 3753 (6/4/2007)
6. TORTILLERIA EL MOLINO, 06-R1D5-203 AND 204 (6/14/2007)

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

For July 3, 2007

Page 2

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. A-C ELECTRIC COMPANY, 04-R2D5-4329
2. APL, 04-R6D2-3887 AND 3888
3. AQP CUSTOM BLOW MOLDING, INC., 06-R4D4-4652 THROUGH 4654
4. A.R.S. AIR CONDITIONING REFRIGERATION SERVICES, INC., 06-R3D5-1443
5. ADECCO USA, INC., 06-R2D4-5149
6. AFFORDABLE TREE SERVICE, 05-R2D1-3098 AND 3099
7. ALPHA-PHILIP DEVELOPMENT, INC. dba ALPHA PROPERTY DEVELOPMENT, 07-R2D4-152 THROUGH 154
8. AMERICAN LAB AND SYSTEMS INC., 07-R4D1-1445 AND 1446
9. AMERICAN MEDICAL RESPONSE, INC., 06-R2D1-5132
10. ARTISTIC MILLWORK, 06-R1D3-5247
11. BACCHUS CAVES, INC., 06-R5D1-5102
12. BIG 'O TIRES STORE NO. 87, 06-R2D1-3870
13. BRECKENRIDGE GROUP, INC., 06-R3D1-4749
14. CLMP LIMITED dba MANPOWER OF TEMECULA, 06-R3D3-4269
15. CVC CONSTRUCTION CORP. dba CEDAR VALLEY CONCRETE, 06-R2D1-5133 AND 5134
16. CA CORRECTIONS, 06-R2D5-3549 AND 3550
17. CA CORRECTIONS-PELICAN BAY STATE PRISON, 06-R2D3-4225
18. CA HIGHWAY PATROL, 06-R2D5-1556
19. CALTRANS, 04-R1D5-1829

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For July 3, 2007
Page 3

20. CA REHABILITATION, 06-R4D1-3924
21. CARAN PRECISION ENGINEERING MFG. CORP., 07-R3D1-1403 THROUGH 1405
22. CARDENAS MARKET, INC., 07-R3D3-174 THROUGH 176
23. CARTER AND COMPANY, 05-R2D3-1888 THROUGH 1891
24. CENTEX HOMES, 06-R2D5-4361
25. CITY PICTURE FRAME, 04-R1D1-4225 AND 4226
26. CLOSETS BY DESIGN, INC., 05-R6D2-2182
27. CONSOLIDATED RESTAURANTS OF CALIFORNIA, INC. dba WENDY'S #506, 06-R3D1-4750 AND 4751
28. COPPER BEECH TOWNHOUSE COMMUNITIES FOURTEEN, LLC, 06-R2D5-3551 AND 3552
29. COSTCO WHOLESALE, 06-R1D3-5129
30. DR. ROSS MAYER'S WOMEN'S & CHILDRENS CLINIC, 05-R4D3-4291 AND 4292
31. DR. ZAK FAMILY DENTISTRY, 05-R4D3-2716
32. DESIGN EXPRESS, 06-R3D5-2804 AND 2805
33. DEVCON CONSTRUCTION, INC., 06-R1D3-2116
34. EAGLE IRON CONSTRUCTION, INC., 04-R4D3-3970
35. ELEVEN WESTERN BUILDERS INC., 06-R3D3-5282
36. ELI INDUSTRIES, INC., 05-R4D1-2340 AND 2341
37. ENTERPRISE BUILDERS INC., 05-R3D3-3322 AND 3323
38. FST SAND AND GRAVEL, 06-R5D3-4482
39. FACILITIES SUPPORT SERVICES, INC., 07-R4D2-1732
40. G & G FOODS, INC. dba G & G SPECIALTY FOODS, INC., 07-R1D5-269

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

For July 3, 2007

Page 4

41. GWS NURSERY & SUPPLIES, INC., 06-R4D4-1334 AND 1335
42. GERAWAN FARMS, 06-R2D5-4739
43. GILBERTO PORTILLO PAINTING, INC., 06-R4D1-263 AND 264
44. GIUMARRA VINEYARDS CORP., 06-R2D5-39
45. GOLDEN ACRE FARMS INC., 07-R6D2-237 AND 238
46. HRM FARM LABOR SERVICES, 06-R4D3-3678
47. HARPER TREE SERVICE, INC., 05-R4D1-2250 AND 2251
48. HAYES COMPANY, 06-R2D5-4358 AND 4359
49. HENLEY & CO., 04-R2D3-3731 THROUGH 3733
50. HOME DEPOT, 06-R4D1-5186 AND 5187
51. INDALEX WEST, 05-R54D4-2558
52. INTERNATIONAL TRANSPORTATION SERVICE, INC., 04-R6D2-4509 AND 4510
53. INTERSTATE BRANDS CORP., 04-R4D1-3059 AND 3060
54. J.G. BOSWELL COMPANY, 04-R2D5-4041 AND 4042
55. J.R. STUDIOS, INC., 05-R6D2-3410 AND 3411
56. JM COMMUNICATIONS, INC., 07-R4D1-313
57. JACKS ALL AMERICAN PLUMBING, 05-R4D3-1367 AND 1368
58. JOB-AIRE AVIATION SERVICES, 04-R2D4-4655
59. J. WILLIAMS CONSTRUCTION CO., 06-R2D3-4941 THROUGH 4945
60. KAS CONSTRUCTION, CO., 05-R4D2-3770 AND 3771
61. KBI NORCAL CONSTRUCTION, 05-R2D3-2912
62. KENWALT DIE CASTING CORP., 05-R6D2-1556 THROUGH 1560

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

For July 3, 2007

Page 5

63. KEY ENERGY SERVICES, INC., 05-R4D1-1015 THROUGH 1017
64. KIRMAN PLUMBING COMPANY, 06-R4D2-3579 AND 3580
65. LAUSD – HOOPER ELEMENTARY, 04-R4D2-4088
66. LEHIGH SOUTHWEST CEMENT COMPANY, 07-R5D1-1743
67. LUNA NUEVA HARVEST, 06-R3D2-3145
68. McFADDEN CONSTRUCTION, INC., 07-R2D4-33
69. MICHAEL GALLI DESIGNS, 06-R2D3-1775
70. MILLARD REFRIGERATED SERVICES, 07-R3D3-1559 AND 1560
71. MONTEREY COUNTY SUPERIOR COURT, 06-R1D2-5128
72. MOUNTAIN VALLEY WATERPROOFING, 06-R3D2-523
73. NORTRAX WEST, 05-R2D5-1774 THROUGH 1777
74. #1 CAR WASH CENTER, 06-R1D4-7 AND 8
75. OHANIANS DRYWALL, INC., 06-R2D5-3553
76. PABON CONSTRUCTION, 06-R4D4-4851
77. PACIFIC BORING, INC., 06-R5D1-5103
78. PACIFIC MARITIME INDUSTRIES CORPORATION, 06-R6D2-1482 THROUGH 1489
79. PALKAR, INC. dba ALKAR HUMAN RESOURCES, 07-R1D5-722
80. POWERHOUSE BUILDING, INC., 06-R1D5-2155 AND 2156
81. PRINTERS ELECTRIC, 07-R4D2-320
82. PRIORITY BUSINESS SERVICES, 07-R2D4-32
83. RFMC CONSTRUCTION, 07-R2D5-160 THROUGH 162
84. RALPH CHERRY MASONRY, 06-R4D3-5205 THROUGH 5207
85. RAM MECHANICAL, INC., 07-R2D4-155 AND 156

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For July 3, 2007
Page 6

86. RAY-RAY FARM LABOR SERVICE, INC., 06-R2D1-235
87. GEORGE RICE AND SONS – QUEBECOR WORLD, 04-R4D2-3962
88. DARNELL ROSE, 07-R4D4-85
89. RUIZ FOODS, 05-R2D5-4203
90. SANCO STEEL ERECTOR, 06-R2D3-4343 AND 4344
91. SAN DIEGO COUNTY TRUSS INC., 07-R6D2-446 AND 447
92. SAN MARINO PLASTERING, 05-R6D1-2362 THROUGH 2364
93. SIERRA PACIFIC INDUSTRIES, 06-R2D3-3379
94. SINANIAN DEVELOPMENT, 05-R4D1-2421
95. SKYLINE ROOF COMPANY, INC., 07-R3D1-1686 AND 1687
96. SOUTHERN CALIFORNIA EDISON, 03-R2D5-2556
97. SOWERS CONSTRUCTION, 07-R3D2-53 AND 54
98. STRETCH FORMING CORP dba EASY-ARCH INC., 06-R6D2-5234 THROUGH 5238
99. SUN PACIFIC FARMING, 06-R2D5-5150 AND 5151
100. SWEET OVATIONS, 06-R4D1-4377
101. TRAYLOR-SHEA, 06-R5D2-4389
102. UNIVERSITY STUDENTS' COOPERATIVE ASSOCIATION, 06-R1D4-1385 AND 1386
103. VACAVILLE ROOFING COMPANY dba OLD COUNTRY ROOFING, 05-R1D5-2777 AND 2778
104. W C CONSTRUCTION dba WILLIAM CLANIN CONSTRUCTION, INC., 04-R3D7-4237
105. WASTE MANAGEMENT dba EL DORADO DISPOSAL SERVICE, 06-R2D1-2163 THROUGH 2165

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For July 3, 2007
Page 7

- 106. WEST COAST COMMUNICATIONS, 04-R2D3-2666
- 107. WESTERN STATES ROOFING, 06-R4D2-5190
- 108. WESTSTAR FIRE SYSTEMS INC., 05-R2D4-781 THROUGH 784
- 109. WOLFE TRUCKING, INC., 07-R4D2-1652 AND 1653
- 110. X-ACT FINISH AND TRIM INC., 07-R3D1-648 AND 649
- 111. YEAGER SKANSKA, INC., 06-R3D2-528
- 112. ZOO CREW CONTRUCTION, 06-R1D4-1027

ORDER DENYING LEAVE TO FILE LATE APPEAL:

- 1. S M B CONSTRUCTION, INC., 07-R1D1-9142

ORDERS DISMISSING APPEALS:

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

- 1. ABM INDUSTRIES, INC dba ABM JANITORIAL SERVICES, 07-R1D1-9135 THROUGH 9137
- 2. ALLIED FRAMERS, 07-R1D4-9148 AND 9149
- 3. AQUAMASION, 07-R1D5-9177 THROUGH 9180
- 4. BUD OF CALIFORNIA dba DOLE FRESH VEGETABLE, 07-R1D2-9147
- 5. BUYER'S NET LEASE REALTY, INC., 07-R1D1-9138 AND 9139
- 6. CARLSBAD MACHINING & DESIGN, 05-R6D2-1500 THROUGH 1503
- 7. CARTRIDGE WORLD AMERICA, 07-R1D4-9150
- 8. COASTAL MARBLE, 07-R4D4-9193
- 9. FOSTER'S WINE ESTATES AMERICAS, 07-R2D7-9054
- 10. GRAND PRIX AUTO WASH, 07-R2D2-9052
- 11. GRAND PRIX AUTO WASH, 07-R2D2-9053

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

For July 3, 2007

Page 8

12. GROWERS TRANSPLANTING, INC., 07-R1D2-9144 AND 9145
13. HESS ROOFING, INC., 07-R3D2-9051
14. HIGH STREET CARWASH, 07-R1D4-9174 THROUGH 9176
15. JG PLASTERING, 07-R1D4-9151 THROUGH 9158
16. JW EXCAVATING, 07-R2D3-9048
17. JUGEM JAPANESE RESTAURANT, 07-R1D2-9050
18. KNIGHT ROOFING, CO., 07-R1D4-9159
19. LA COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES, 07-R4D2-9047
20. LA COUNTY SHERIFF DEPT., 07-RD-4D2-9049
21. LABOR READY, 07-R1D2-9143
22. LIBERTY BELL ALARM., CO., INC., 07-R2D1-9046
23. OMEGA STONE, 07-R1D4-9169 THROUGH 9171
24. PPG AUTOMOTIVE REFINISH, 07-R4D4-9195
25. PALTEX, INC., 07-R4D2-9056 THROUGH 9058
26. R BROTHERS PAINTING, 07-R1D4-9172
27. SANMINA-SCI CORPORATION, 07-R1D4-9173
28. T & O MASONRY, INC., 07-R1D5-9055
29. THRESHOLD ENTERPRISES, LTD., 07-R1D2-9146
30. TITAN PCB WEST, INC., 07-R1D4-9160 THOROUGH 9168
31. VLADIGOR INVESTMENTS, INC. dba TOWER CAR WASH, 07-R1D1-9141
32. WORLD SAVINGS AND LOAN, 07-R1D4-9194

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For July 3, 2007
Page 9

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. CALIFORNIAN FRESH FARMS LLC, 06-R2D4-4127 AND 4224
2. DIAZ AND SONS, INC., 04-R1D5-3722

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. GROUND ZERO ENGINEERING, 07-R1D3-9062 THROUGH 9069
2. KELSEYVILLE LUMBER & SUPPLY CO., INC., 04-R1D5-119 THROUGH 122

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. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. ADVANCED POLYMER TECHNOLOGIES, 04-R2D4-4656
4. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
5. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
6. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
7. BLUE DIAMOND MATERIALS, 02-R5D2-1268
8. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
9. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
10. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
11. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
12. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For July 3, 2007
Page 10

13. COX COMMUNICATIONS, 03-R3D2-1942
14. DADE BEHRING, 05-R2D1-2203
15. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
16. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
17. DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448
18. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
19. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
20. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
21. GLASS PAK, 03-R2D2-0750 AND 0751
22. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
23. HELPMATES STAFFING SERVICES, 05-R3D3-2239
24. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
25. HUSSMAN CORPORATION, 03-R3D1-2939
26. ILH CONSTRUCTION, 02-R1D1-4172
27. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
28. JERLANE, INC. dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
THROUGH 4348
29. JOHN LAING HOMES, 04-R3D1-194 AND 195
30. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
31. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
32. LONG BEACH CITY COLLEGE, 03-R3D5-2747
33. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
34. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
35. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401

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

For July 3, 2007

Page 11

36. O& M INDUSTRIES, 04-R1D5-1597
37. PMR RACE CARS, 03-R3D3-1825
38. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
39. RII PLASTERING INC., 02-R3D1-2679
40. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH
1656
41. SAFEWAY #951, 05-R1D4-1410
42. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
43. SPRAY BOOTH TECHNOLOGIES, 03-R3D3-4910
44. STACY & WITBECK INC., 05-R1D1-1142
45. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
46. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
47. TEICHERT AGGREGATES, 04-R5D1-2982
33. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-
R3D3-2533 AND 2534
34. TRI-COUNTY, INC., 04-R1D5-3927
48. TRIO METAL, 03-R4D4-0317
49. WESTERN DOOR, 01-R3D1-2827
50. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

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

For July 3, 2007

Page 12

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. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
3. UNITED ASSOCIATION LOCAL UNION 246, AFL-CIO; IDEPSCA INSTITUTO DE EDUCACION POPULAR DEL SUR DE CALIFORNIA AND CENTRO LEGAL DE LA RAZA, (HARRIS CONSTRUCTION COMPANY, INC.), 07CS00518 (02-3914)
4. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
5. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)

APPELLATE COURT:

1. NONE

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.