

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c), (3), and (e)
for
Wednesday, August 29, 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: August 17, 2007

RE: Closed Session of the Board on August 29, 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. AMERICAN CORPORATE SECURITY, INC., 04-R6D2-4464 (8/13/2007)
2. BILL NELSON GENERAL ENGINEERING CONSTRUCTION, INC., 05-R2D5-2655 (8/16/2007)
3. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636 (7/19/2007)
4. FEY AUTOMOTIVE PRODUCTS, INC., 04-R4D4-1328 AND 1329 (7/30/2007)
5. FREEMAN MOTORS COLLISION CENTER, 05-R1D5-1281 AND 1282 (8/1/2007)
6. MEEKERS HOUSE BOAT REPAIR, 06-R2D4-3727 AND 3728 (8/16/2007)

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7. PAUL AND MARILYN GOULD, INC. dba ALLIED CRAFTS BUILDING, 04-R4D1-3056, 07-R4D1-0356 (8/1/2007)
8. WOODWORKS WINDOW & DOOR COMPANY, INC., 04-R1D1-1923 AND 1924

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. ANDERSON CLAYTON CORP dba SACRAMENTO VALLEY GINNING CO., 05-R2D3-2393 THROUGH 2396
2. ANGELES AREA ROOFING CO., INC., 05-R4D3-1375
3. BROWARD BROS., INC., 06-R2D3-5264
4. BRUNDAGE-BOND CONCRETE PLUMBING, 05-R4D3-2445 AND 2446
5. CD CONTAINER, 06-R4D4-2378 AND 2379
6. CD CONTAINER, 06-R4D4-2381 AND 2381
7. CEDAR LANE NATURAL FOODS, INC., 06-R3D5-1850
8. CENTIMARK, 06-R4D2-4287
9. CHUNG'S ELECTRIC, 05-R3D5-2418, 07-R3D5-3199
10. CLARK PACIFIC, 05-R1D4-3848
11. CLEAN HARBOR ENVIRONMENTAL SERVICES, INC., 06-R4D2-4288
12. COFFMAN SPECIALTIES, 04-R4D4-3411 THROUGH 3414
13. D.H. SMITH COMPANY, INC., 06-R2D4-2734 THROUGH 2736
14. DRIVELINE SERVICE [MANN'S DRIVE LINE SERVICE OF WHITTIER dba DRIVELINE SERVICE], 05-R4D4-1719 THROUGH 1721
15. GREATER LOS ANGELES COUNTY VECTOR CONTROL DISTRICT, 06-R4D4-4296
16. HARRISON DRYWALL, 06-R1D3-2114 AND 2115

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17. JCO INC. dba LAS CUATRO MILPAS, 06-R3D3-3653 AND 3654
18. JM CARDEN SPRINKLER COMPANY, INC., 05-R4D2-3005 THROUGH 3007
19. JUBILANT EARTH NURSERY, 06-R2D3-5262
20. KBA ENGINEERING, LLC., 04-R4D3-2131
21. KEY ENERGY SERVICES, 05-R4D3-3518
22. KRAFT FOODS INC., 05-R2D5-983
23. L.A. WEB OFFSET PRINTING, INC., 06-R4D4-1473 THROUGH 1475
24. LABOR READY, 05-R1D2-2469
25. LABOR READY, 04-R4D2-3964 AND 3965
26. LEXINGTON, 05-R4D3-2857
27. LOS ANGELES COUNTY PARKS AND RECREATION, 06-R4D4-174 THROUGH 176
28. MANGANO, INC., 04-R2D5-4038 AND 4039
29. MAPON, INC. dba ACE ROOFING SYSTEMS, 05-R3D5-3152
30. MARELICH MECHANICAL CO. INC., 04-R1D5-3619 AND 3620
31. MESQUITE ENTERPRISE LLC, 04-R3D3-4408
32. MONARCH LITO, INC., 06-R4D4-1376 THROUGH 1379
33. NOR-CAL BEVERAGE CO., INC., 06-R2D1-393
34. ORLANDO SPRING CORP., 05-R6D2-3217 THROUGH 3225
35. P G & E, 06-R1D5-386
36. PERMA INDUSTRIES INC dba PERMA-COOL, 04-R6D2-3994 THROUGH 4004
37. ESTER PHELPS [formerly JON & ESTER PHELPS], 05-R2D3-966 THROUGH 968
38. PIETRA SANTA VINEYARDS & WINERY, 04-R1D2-3817

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39. PRECISION PLASTERING, 05-R3D3-996 THROUGH 1000
40. PRICE CONSTRUCTION CO., 06-R2D1-2679 THROUGH 2682
41. RM3 BUILDERS, 05-R4D4-2003 THROUGH 2005
42. SANTA FE MOLD CO., 06-R4D4-2501 AND 2502
43. SANYO SOLAR, 07-R3D5-184
44. SELECT PERSONNEL SERVICES, 05-R4D3-2858 THROUGH 2862
45. SHURFLO PUMP MANUFACTURING, 06-R3D5-5080 AND 5081
46. SIGN DESIGNS INC., 05-R2D1-3097
47. CHANG SOOL SOHN ET AL dba GREAT KHAN STONEWOOD, 06-R4D4-177 THROUGH 180
48. S'TOP HOME SERVICE ROOFING CO., INC., 06-R1D1-1233
49. STREMRICKS HERITAGE FOODS, 07-R6D2-2864 AND 2865
50. SUGAR FOODS CORP., 05-R4D3-3017 THROUGH 3020
51. TARGET, 07-R2D1-2099 AND 2100
52. TAYLOR TREE COMPANY, 04-R6D2-3992
53. TEMP POWER SYSTEMS, 05-R3D2-448 THROUGH 450
54. TRAYLOR-SHEA-FRONTIER-KENNY, JV, 04-R5D2-1550 THROUGH 1552
55. UNION ASPHALT, INC. (ROCKY CANYON), 07-R5D2-1464
56. DON WARTON, 06-R1D1-411 THROUGH 413

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ORDERS DISMISSING APPEALS:

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

1. DAVIS ROOFING, INC., 05-R3D3-4127
ACTION: Returned from August 15, 2007 Board meeting.
2. ABEL GARDINO dba GARDINO PAINTING, 05-R4D2-1521 THROUGH 1523
3. USA SERVICES, 05-R4D2-2712 THROUGH 2715

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. ABM INDUSTRIES, INC dba ABM JANITORIAL SERVICES, 07-R1D1-9135 THROUGH 9137
2. BAY AREA RAPID TRANSIT DISTRICT, 03-R1D1-5170
3. HARRINGTON TOOLS, INC., 06-R4D1-2824 THROUGH 2826
4. NASSO (NATIONAL STEEL & SHIPBUILDING COMPANY) 04-R6D2-2874 THROUGH 3876
5. NASSO (NATIONAL STEEL & SHIPBUILDING COMPANY) 04-R6D2-3993
6. PEACOCK CONSTRUCTION, INC., 04-R1D1-2851

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. CHOOIJIAN BROTHERS PACKING CO., 05-R2D5-984

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

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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. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
8. BLUE DIAMOND MATERIALS, 02-R5D2-1268
9. BRYDENSCOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
10. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
11. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
12. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
13. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
14. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242
15. COX COMMUNICATIONS, 03-R3D2-1942
16. DADE BEHRING, 05-R2D1-2203
17. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
19. DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448
20. DYNALECTRIC, 03-R1D1-4101
21. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
24. GLASS PAK, 03-R2D2-0750 AND 0751
25. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536

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26. HELPMATES STAFFING SERVICES, 05-R3D3-2239
27. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
28. HUSSMAN CORPORATION, 03-R3D1-2939
29. ILH CONSTRUCTION, 02-R1D1-4172
30. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
31. JOHN LAING HOMES, 04-R3D1-194 AND 195
32. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
33. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
34. LONG BEACH CITY COLLEGE, 03-R3D5-2747
35. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
36. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
37. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
38. O& M INDUSTRIES, 04-R1D5-1597
39. PMR RACE CARS, 03-R3D3-1825
40. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
41. RII PLASTERING INC., 02-R3D1-2679
42. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
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

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48. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-R3D3-2533 AND 2534
49. TRI-COUNTY, INC., 04-R1D5-3927
50. TRIO METAL, 03-R4D4-0317
51. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
52. WESTERN DOOR, 01-R3D1-2827
53. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

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)
6. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)

APPELLATE COURT:

NONE

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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.