

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 5, 2010
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: April 22, 2010

RE: Closed Session of the Board to be held on May 5, 2010

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. CABRERA CONTRACTING, INC., 08-R1D2-3475
2. HARRIS SALINAS REBAR, INC., 08-R1D3-3621

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. SAMBADO & SON, INC., 09-R6D3-3860 THROUGH 3862
2. AAA ROOFING BY GENE, INC., 10-R3D3-0045

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 2

3. ASC PROFILES, INC., 06-R2D1-1181
4. AVON PRODUCTS, 09-R6D4-3473 THROUGH 3475
5. BALLETO RANCH, INC. DBA BALLETO VINEYARDS, 09-R1D5-2046 THROUGH 2049
6. BARTON HEALTHCARE SYSTEM DBA TAHOE MEDICAL GROUP, 09-R2D1-0708 AND 0709
7. BEADOR CONSTRUCTION COMPANY, INC., 09-R3D3-3937
8. BILL BICKFORD, 09-R1D5-0195
9. BRENNAN ELECTRIC, INC., 10-R3D3-0287 AND 0288
10. CANYON CENTER II, INC., 09-R4D3-2867 AND 2868
11. BENITO VELIZ CARRILLO DBA EC LABOR, 08-R1D2-3185
12. COMMODITY SALES CO., 09-R4D2-3723
13. CONNOLLY-PACIFIC COMPANY, 09-R5D2-3330
14. CONSTRUCTION HOT LINE & MANAGEMENT PARTNERS, INC. DBA CHAMP STEEL, 09-R6D2-2655 AND 2656
15. COOL SOLUTIONS MANUFACTURING, INC., 08-R2D4-2379 AND 2380
16. COSCO FIRE PROTECTION, 09-R2D5-0188 THROUGH 0192
17. COUNTY OF SAN LUIS OBISPO, DEPT. OF GENERAL SERVICES, 09-R4D3-3648
18. EBERHARDT CONSTRUCTION, INC., 09-R3D3-3589
19. ENER-TECH METALS, INC., 09-R6D2-4078 THROUGH 4081
20. ESPARZA ENTERPRISES, INC., 09-R2D5-0751 THROUGH 0753
21. LOUIE ESTRADA, 08-R2D4-3424 AND 3425
22. GB MANNISTO, INC., 09-R2D1-0657
23. GIMEL CONSTRUCTION, INC., 09-R6D5-0985 THROUGH 0987

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

For May 5, 2010

Page 3

24. GRANITE CONSTRUCTION COMPANY, 09-R4D5-2939
25. HACIENDA DEL RIO, INC., 09-R2D1-0478
26. HANSON AGGREGATES PACIFIC SOUTHWEST, INC., 09-R5D3-4133
27. HORIZON LATHING, INC., 09-R4D2-2888 THROUGH 2891
28. JP SURPLUS AND SALVAGE, 08-R1D2-3611 AND 3612
29. L.A. CO. DEPT. OF MENTAL HEALTH, 09-R4D2-3782 THROUGH 3785
30. LHL CONSTRUCTION, INC., 09-R2D1-0745
31. LOS ANGELES FIRE DEPARTMENT, STATION 5, 09-R4D1-1822 AND 1823
32. LOS ANGELES FOUNDATION, 09-R4D1-2546 THROUGH 2548
33. LUKER FRAMING AND GENERAL CONSTRUCTION, INC., 08-R1D2-4250
THROUGH 4253
34. MAINLAND SKATE & SURF, INC., 09-R2D5-0750
35. MAJICH BROS., INC., 09-R3D6-3410
36. MKM OAKDALE LLC., 09-R4D3-0646
37. MYERS CONTAINER LLC, 10-R3D6-0228 THROUGH 0230
38. NEW HEIGHTS ELEVATOR CO., INC., 09-R4D5-2779 AND 2780
39. NUTRI GRANULATIONS LLC, 09-R3D6-2469 AND 2470
40. OSH, 09-R2D1-0656
41. PABON CONSTRUCTION COMPANY, 09-R3D3-4017
42. PENSKE TRUCK LEASING, 09-R4D3-3734
43. MARK PEREZ DBA ANCIENT STONE WORKS, 09-R6D7-3105
44. PORTS AMERICA, INC. DBA SEASIDE TRANSPORT SERVICES, 09-R6D2-
2833
45. PRE CON INDUSTRIES DBA PREMIERE DRYWALL, 09-R4D3-3370
THROUGH 3372

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 4

46. QUICK CREATION, INC., 09-R4D1-3109 THROUGH 3112
47. REDDING TREE GROWERS CORP., 09-R2D5-3115 AND 3116
48. RIVERSIDE COUNTY TRANSPORTATION, 09-R3D3-3495
49. DON & DOROTHY ROSENTHAL DBA HEIDI'S PANCAKE HOUSE, 09-R2D1-0505
50. CARL SANTOS DBA CARL SANTOS CONSTRUCTION, 08-R1D5-3708
51. SEGUE CONSTRUCTION, INC., 09-R1D3-0095
52. SIMPSON DURA-VENT COMPANY, INC., 08-R2D2-1306 THROUGH 1309
53. STRATA FOREST PRODUCTS, 09-R6D2-2920 AND 2921
54. SUNWEST MILLING COMPANY, INC., 09-R2D1-0623
55. SUPERIOR FRAMING, INC., 08-R2D4-1719 THROUGH 1721
56. TAILORED MASONRY OF CALIFORNIA, 10-R4D1-0100 THROUGH 0102
57. TC CONSTRUCTION, 09-R4D3-3647
58. TESORO REFINING AND MARKETING COMPANY LAR, 09-R6D4-4182 AND 4183
59. THE QUARRY AT LA QUNITA, INC., 09-R3D3-3446
60. MOHINDERJIT THIARA DBA THIARA RANCHES, 09-R2D1-0676
61. THUNDERBIRD COUNTRY CLUB, 10-R3D3-0219
62. WEST COAST CORRAL, INC. DBA GOLDEN CORRAL, 09-R2D1-0476
63. WOODS ROOFING, INC., 09-R1D2-1129 AND 1130
64. ZUMAR INDUSTRIES, INC., 09-R6D2-3910 THROUGH 3912

ORDERS DISMISSING APPEALS:

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 5

1. INNOVATIVE BUSINESS PARTNERS LLC, 09-R3D3-4521
2. PHILIPPE F. GURREY FINE CABINETS, 08-R1D4-2546
3. SALYER AMERICAN FRESH FOODS, INC., 08-R1D2-3613

ORDER GRANTING APPEAL:

1. RAYTHEON TECHNICAL SERVICES CO. LLC, 09-R3D3-3320

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. CHRIS RANEY CONSTRUCTION, 10-R6D7-9091

PETITIONS FOR RECONSIDERATION:

1. FRESNO PRODUCE CO., INC., 10-R6D1-9064
2. BARNHART, INC., 09-R2D1-2778
3. GORDON SAND CO., 09-R4D3-2744 AND 2745
4. NORTHERN CALIFORNIA PAPER RECYCLERS, INC., 09-R1D4-2351
THROUGH
2353
5. PRISON INDUSTRY AUTHORITY, 07-R1D5-2171 THROUGH 2173
6. SOLARIS PAPER, INC., 09-R3D6-2156

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. GAYLE MANUFACTURING CO., INC., 07-R2D1-3104
2. SOLARIS PAPER, INC., 09-R3D6-2156

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 LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC FRAMERS INC., 03-R2D3-3475

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 6

4. AC TRANSIT, 08-R1D4-0135
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. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
11. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
12. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
13. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
14. BURTON L. SILVA FARMS, 09-R1D2-1498
15. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
17. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
18. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
19. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
20. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
21. PEN CHANG, 08-R2D4-3102
22. CLINE CELLARS, INC., 08-R1D5-2946
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
25. COMMERCIAL METAL FORMING, 09-R3D1-1592
26. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 7

27. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
28. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
29. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
30. DESIGN BUILDERS, INC., 08-R4D4-1901
31. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
32. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
33. DUKE PACIFIC, INC., 08-R3D3-574
34. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
35. DUININCK BROS., INC., 06-R4D3-2871
36. DYNALECTRIC, 03-R1D1-4101
37. E. C. U., INC., 09-R3D5-1094 AND 1095
38. EPSILON ELECTRONIC, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
39. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
40. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
41. EZ MIX, INC., 08-R4D3-1898
42. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
43. FORTUNA IRON WORKS 06-R2D3-4222
44. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
45. G.T. ALDERMAN, INC., 05-R4D3-3513
46. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
47. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
48. GLASS PAK, 03-R2D2-750 AND 751
49. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 8

50. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
51. HAMMOND POWER SOLUTIONS, INC., 09-R4D2-1124 AND 1125
52. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
53. HB PARKCO, 07-R4D2-1730 AND 1731
54. HELPMATES STAFFING SERVICES, 05-R3D3-2239
55. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
56. JOSE HERNANDEZ DBA SUPER SPORT BODY & PAINT, 10-R6D5-9061
57. THE HERRICK CORP., 07-R3D1-495
58. HUSSMAN CORPORATION, 03-R3D1-2939
59. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
60. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
61. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
62. JENSEN PRECAST, 05-R2D1-2377
63. JOHN LAING HOMES, 04-R3D1-194 AND 195
64. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
65. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
66. KELLY SERVICES, INC., 06-R1D2-1024
67. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
68. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
69. LA MINA CANTINA, 09-R2D5-0039
70. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
71. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
72. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 9

73. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
74. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
75. MARINE TERMINALS, 08-08-R6D2-1920
76. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
77. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
78. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
79. O & M INDUSTRIES, 04-R1D5-1597
80. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
81. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
82. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
83. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
84. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
85. R & L BROSAMER, INC., 03-R1D5-4832
86. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
87. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
88. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
89. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
90. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
91. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
92. STACY & WITBECK, INC., 05-R1D1-1142
93. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
94. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
95. SUNOPTA FRUIT GROUP, 09-R3D1-9245

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 10

96. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
97. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
98. TEICHERT AGGREGATES, 04-R5D1-2982
99. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
100. UNITED PARCEL SERVICE, 07-R3D3-3322
101. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
102. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
103. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710
104. Z PIZZA CORPORATION, 10-R4D1-9048

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. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-00056381-CU-WM-NC (01-4344/4345)
3. JERLANE V DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, 37-2009-00059323-CU-WM-NC (08-1733)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 5, 2010
Page 11

8. UNITED AIRLINES (SFO), 34-2009-80000256
9. XL CONSTRUCTION, SUPERIOR COURT (34-2009-80000300), 08-R1D2-1191 THROUGH 1193
10. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
11. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499 AND 2500)
12. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030 through 3032)
13. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09-R1D3-9280 AND 9281)
14. JC CONSTRUCTION, BS124990 (09-9265)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, BS 119297 (08-9062)

PERSONNEL:

(Issues regarding staff.)

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