

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, December 3, 2008

10:00 AM

Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: November 21, 2008

RE: Closed Session of the Board on December 3, 2008

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 (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and 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. BLF, INC., DBA LARRABURE FRAMING [LARRABUE FRAMING], 08-R4D1-0077
2. CREATIVE T'S N THINGS, 06-R2D1-3403
3. GIBSON PERFORMANCE EXHAUST, 06-R6D2-5333 THROUGH 5337
4. GREEN LOFTS, LLC, 07-R4D2-3213 THROUGH 3216

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and 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. ADAPTECH CORPORATION, 06-R3D1-4036
2. AIRTECH SERVICES, 07-R2D5-5165 THROUGH 5167
3. ALVIZIA LANDSCAPE, INC., 08-R3D2-1605
4. ARMSTRONG GARDEN CENTER, 08-R3D5-2720 AND 2721
5. B & B DOORS & WINDOWS, INC., 08-R6D2-1251 THROUGH 1256
6. BLUE STREAK AUTOMOTIVE, 08-R4D3-0598
7. BOSTON RACK, 08-R4D2-2990
8. MIKE BROWN GRANDSTANDS INC., 08-R3D5-2911
9. BUTLER BOX & STAKE INC., 08-R6D2-2566 THROUGH 2568
10. CAR HEALTH PLAN, INC., 08-R6D5-2581
11. CERISE AUTOMOTIVE ENTERPRISES DBA CERISE AUTO BODY,
06-R4D1-589 AND 590
12. COOPER AG SERVICES, 07-R2D5-4235 THROUGH 4239
13. DH BUILDER'S INC., 08-R4D1-1887
14. DAIRY FARMERS OF AMERICA, INC., 07-R6D2-3509 THROUGH 3513
15. RICARDO DELGADILLO, DVM, MS DBA CROSSROADS VETERINARY
HOSPITAL, 07-R2D1-4639
16. ELI INDUSTRIES, INC., 08-R4D1-1514 THROUGH 1516
17. ETIVISTA CONCRETE INC., 07-R3D3-4697 AND 4698

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18. EDWARD FRAKES, 07-R3D2-4029 AND 4030
19. LUIS GARAY DBA KIMBER PALLETS, 08-R6D2-1176 AND 1177
20. FRANCISCO GRANADENO, 07-R4D4-5384 THROUGH 5387
21. HARAKAS ENTERPRISES DBA, FANTASTIC CAFÉ, 08-R6D5-0858
22. VICTOR HOURANI DBA HOURANI CONCRETE, 0-R3D2-2833
23. IM CONSTRUCTION, 07-R2D1-0270
24. IRWINDALE CAR WASH, 08-R6D5-2582
25. LEVY PREMIUM FOOD SERVICES LIMITED PARTNERSHIP, 08-R4D1-3146
26. LODI WESTERN MACHINE, INC., 06-R6D1-1906 THROUGH 1909 AND
VIC MEYERS, INC., 06-R6D1-1910 THROUGH 1918
27. CHESTER T. LONGBOY, 07-R2D5-0136 AND 0164
28. LOS ALAMITOS IRON, 07-R6D2-4057 AND 4058
29. MARATHON CONSTRUCTION CORP., 08-R6D2-2456
30. MCMURRAY & SONS INC, 07-R2D3-3241 AND 3242
31. METRO PADS, INC., 08-R6D5-2470 AND 2471
32. NEVELL GROUP, INC., 08-R4D1-3147 THROUGH 3149
33. NORTH AMERICAN CURTAIN WALL, 08-R3D1-2105
34. PARAMOUNT FARMS, 05-R4D3-4294
35. HERMANOS PEREZ PRODUCE, 08-R4D1-3009
36. PREFERRED MEAL SYSTEMS, INC., 07-R6D2-0583 THROUGH 0590
37. PRODCO, INC., 08-R4D1-3218
38. RIVERSTONE RESIDENTIAL CA, INC., 08-R4D1-3053 AND 3054
39. SDG & E, 08-R3D2-2196

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40. SEE'S CANDY SHOPS, INC., 08-R4D1-1421 AND 1422
41. SEVEN UP/RC BOTTLING COMPANY, INC., 08-R4D2-3219 AND 3220
42. SHIN MODE, INC., 07-R6D2-5232 THROUGH 5235
43. SIERRA PACIFIC INDUSTRIES, 07-R2D3-0028
44. SIGMA STRETCH FILM OF CALIFORNIA DIVISION OF SIGMA PLASTICS GROUP, 08-R3D3-0179 THROUGH 0181
45. SMITH EMERY COMPANY, 08-R3D5-0920
46. STEVE'S MASONRY, 07-R2D4-2702 AND 2703
47. STRONGHOLD ENGINEERING, INC., 05-R3D3-4124 THROUGH 4126
48. SUNSET STRUCTURES CONSTRUCTION INC., 08-R3D2-1734 AND 1735
49. SUPERIOR CONSTRUCTION INC., 07-R3D5-0188 THROUGH 0190
50. TEAK WAREHOUSE, INC., 08-R4D1-1418 AND 1419
51. THE MILLARD GROUP, 08-R4D2-1633 AND 1634
52. THE ORTIZ COMPANY DBA INLINE CONSTRUCTION, 08-R6D5-2580
53. THE PLANET APPAREL, 07-R3D2-1168 THROUGH 1170
54. DAVID B. TONEMAN CONSTRUCTION, INC., 08-R4D1-1619 THROUGH 1621
55. TOTAL STRUCTURES, INC., 08-R6D2-0493 THROUGH 0498
56. TRAIL LANES, INC., 08-R4D4-467 THROUGH 470 AND 08-R4D4-3575
57. VINCI PACIFIC CORPORATION, 07-R3D3-2419 THROUGH 2422
58. WAL-MART DISTRIBUTION CENTER #7033, 08-R3D3-1744
59. WEBER PLYWOOD AND LUMBER CO INC., 08-R3D1-2257

ORDERS DISMISSING APPEALS:

1. ARMANDO'S BODY SHOP, 08-R6D5-9419
2. ATTOLLO GROUP LLP, 08-R2D1-9366
3. CAMPANILE II LP DBA CAMPANILE, 08-R6D2-9378
4. LEADER FASHION, 08-R4D1-2829 AND 2830
5. LINDSAY FOODS, 07-R2D5-4861
6. LUXURY AUTO COLLISION, 08-R6D5-9380
7. MCH ELECTRIC, INC., 08-R1D4-9405
8. NORTHCREST TRAILER CITY, 08-R2D1-9346
9. PALOMA AVENUE LLC, 06-R1D3-256 THROUGH 2553
10. PRABHANDON SINGH MOHAR ORCHARD DBA MOHAR RANCH,
07-R2D3-2579
11. SOUTHERN CALIFORNIA OUTDOOR CONCEPTS, INC., 08-R6D5-9348
12. GARY TROUBLEFIELD I DBA TLC TREE SERVICE, 08-R1D4-9404

STIPULATIONS:

1. GENERAL CARBON, 07-R4D2-771 AND 772
2. ISMAEL S. NUNEZ CONTRACTING, 07-R2D5-385 AND 386
3. WEST VALLEY FARMING LLC, 07-R2D5-0034 AND 0035

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety and 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. SILGAN CONTAINERS, 08-R2D4-9456
2. C & M FINE PACK, INC., 07-R6D2-4149 THROUGH 4155
3. JAMES, ROBERT & DON CLARK DBA CLARK PACIFIC, 06-R2D1-0023
4. CYN LITHOGRAPHS, INC., DBA CHOICE LITHOGRAPHS, 08-R4D4-9017
5. D.C. MARKETING, INC., 08-R4D1-2403 THROUGH 2405
6. GCM FARMS, 06-R2D5-911
7. JOHN MANCEBO, 08-R2D5-9313
8. NAPRODIS, INC., 08-R3D2-824 THROUGH 828
9. R BROTHERS PAINTING, 07-R1D4-9172

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. AC FRAMERS INC., 03-R2D3-3475
3. ASC PROFILES, INC., 06-R2D1-1181
4. ANNING-JOHNSON COMPANY, 06-R1D3-1976
5. BART, 03-R1D1-5170
6. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217

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7. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
8. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
9. BLUE DIAMOND MATERIALS, 02-R5D2-1268
10. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
13. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224
14. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
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-R3D1-114
19. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
20. DUKE PACIFIC, INC., 06-R3D3-5157 THROUGH 5177
21. DYNALECTRIC, 03-R1D1-4101
22. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
23. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
24. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
25. FORTUNA IRON WORKS 06-R2D3-4222
26. G.T. ALDERMAN, INC., 05-R4D3-3513
27. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
28. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322

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29. GLASS PAK, 03-R2D2-750 AND 751
30. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
31. HELPMATES STAFFING SERVICES, 05-R3D3-2239
32. THE HERRICK CORP., 07-R3D1-495
33. HUSSMAN CORPORATION, 03-R3D1-2939
34. ILH CONSTRUCTION, 02-R1D1-4172
35. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
36. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
37. JENSEN PRECAST, 05-R2D1-2377
38. JOHN LAING HOMES, 04-R3D1-194 AND 195
39. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
40. KELLY SERVICES, INC., 06-R1D2-1024
41. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
42. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
43. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
44. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
45. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
46. O & M INDUSTRIES, 04-R1D5-1597
47. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
48. PMR RACE CARS, 03-R3D3-1825
49. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
50. RII PLASTERING INC., 02-R3D1-2679

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51. R & L BROSAMER, INC., 03-R1D5-4832
52. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
53. STACY & WITBECK, INC., 05-R1D1-1142
54. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
55. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
56. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES,
04-R5D2-850 AND 851
57. TEICHERT AGGREGATES, 04-R5D1-2982
58. TRIO METAL, 03-R4D4-317
59. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
60. UNITED PARCEL SERVICE, 07-R3D3-3322
61. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
62. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

PENDING LITIGATION:

(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after 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. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
2. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
3. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-
0005631-CU-WM-NC, (01-4344/4345)

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4. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
5. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
6. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
7. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
8. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
9. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
10. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)

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.