

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, December 19, 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: December 7, 2007

RE: Closed Session of the Board on December 19, 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. ARCHITECTURAL GLASS & ALUMINUM, 05-R6D2-3074 AND 3075
2. RGW CONSTRUCTION, INC., 06-R1D4-2554 AND 2555
3. THE WILDLANDS CONSERVANCY dba WIND WOLVES PRESERVE, 04-R4D3-1967 AND 1968

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in

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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 L CONSTRUCTION, 06-R3D2-1199 THROUGH 1201
2. AT&T, 06-R2D2-449
3. ACE CLEARWATER ENTERPRISES, 05-R4D2-3686 AND 3687
4. ACE FIXTURE COMPANY, 06-R3D5-4969 THROUGH 4971
5. AIR TECH INTERNATIONAL, INC., 06-R3D5-4054
6. ALPHA PHILIP DEVELOPMENT, INC., dba ALPHA PROPERTY DEVELOPMENT, 07-R2D1-1129 AND 1130
7. AMERICAN ASPHALT SOUTH, INC., 04-R3D1-4668 AND 4669
8. AMERICA WEST AIRLINES, 06-R1D3-1746
9. ANAHEIM EMBROIDERY, 06-R3D1-126 THROUGH 130
10. ARAMARK, 05-R4D2-3191
11. ARMANDO'S BAR & GRILL, 07-T3D3-1935 ND 1936
12. BENNETT HARDWARE, 07-R2D4-2108
13. BIG LOTS STORES, INC. #4463, 07-R2D4-1625
14. BRAGG CRANE, 06-R3D2-4137 AND 4138
15. CBC FRAMING, 06-R1D2-2648
16. CSI CONSTRUCTION OF SOUTHERN CA, 06-R3D2-821 AND 822
17. CENTRAL VALLEY LANDSCAPE SERVICES, INC., 07-R2D4-2107
18. CITY OF CLOVERDALE, 07-R6D3-3627 AND 3628
19. CLOVER LEAF CONSTRUCTION CO., INC., 06-R1D2-2649
20. COMMART PRINTING AND GRAPHICS, 05-R4D3-1990 AND 1991
21. COX INDUSTRIAL SERVICES, 06-R3D1-4133

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22. CRAFTSMAN CONSTRUCTION INC., 07-R4D3-527 AND 528
23. CRAFTSMAN HARDWOOD FLOORS, INC., 06-R4D3-1656
24. DPR CONSTRUCTION, 06-R4D2-1115
25. DAVE'S DIRT WORK, INC., 07-R3D3-1939
26. DAVEY TREE EXPERT CO. dba DAVEY TREE SURGERY CO., 04-R2D3-3279
27. LINH XUAN DO dba CUSTOM DESIGN, 07-R3D3-2944 THROUGH 2946
28. FCI CONSTRUCTORS, 06-R1D4-2125 AND 2126
29. FARMERS' RICE COOPERATIVE, 06-R2D3-2177
30. 5A ROADSIDE ASSISTANCE, 06-R4D3-1327
31. FOOTHILL PACKING, INC., 07-R3D2-2601 THROUGH 2605
32. FULLERTON CULTURED SPECIALTIES, 07-R6D2-1596
33. GERARDO ACEVEDO TREE SERVICE, 05-R4D4-3214 AND 3215
34. GREGORY CONSTRUCTION, 05-R4D3-4446 AND 4447
35. BRIAN & KATHLEEN HEINSON dba BRYMEL HOME IMPROVEMENT SPECIALISTS, 06-R3D1-497 AND 498
36. HENKELS & McCOY, INC., 07-R2D5-1161
37. HIDALGO LAWN SERVICE, 07-R4D3-1207 THROUGH 1209
38. HILL CONTRACTING GROUP, 06-R4D3-3942
39. HUFFMON FARMS, 07-R2D5-1682
40. HY-MAX BUILDING CORP., 07-R4D1-3212
41. J C PENNEY, 07-R2D5-2111
42. JOHN CRAVEN PLASTERING, 07-R4D2-1072 THROUGH 1074
43. KEMIRON COMPANY, INC., 07-R2D7-1162

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44. LAKMANN CONSTRUCTION, 07-R2D3-2700 AND 2701
45. DAVE LINSKENS dba FIVE STAR WATER TRUCK RENTAL, 05-R3D1-3942 THROUGH 3945
46. MBD, INC., 06-R2D3-3366 AND 3367
47. M R C CONSTRUCTION, 06-R3D2-1069 AND 1070
48. MADE IN JAPAN/MADE IN USA, 07-R1D2-2090 AND 2091
49. MARUCHAN, INC., 04-R6D2-3804 THROUGH 3808
50. MARUCHAN, INC., 04-R6D2-3809 THROUGH 3815
51. MARUCHAN, INC., 05-R3D1-2229
52. MC ERECTORS INC. 07-R3D1-3038
53. METAL SALES MANUFACTURING CORP., 06-R2D1-2560 AND 2561
54. NIAGRA BOTTLING, LLC, 06-R3D1-3141
55. ORCHARD SUPPLY HARDWARE, 07-R3D5-1713 AND 1714
56. OWENS CORNING, 07-R1D2-1900
57. PACIFIC AQUAFARMS CORPORATION, 07-R3D2-3039 THROUGH 3043
58. PEKING NOODLES CO., INC., 07-R6D2-3514 THROUGH 3523
59. PERMALITE PLASTICS CORPORATION, 06-R3D1-304 THROUGH 307
60. PHARMAVITE, 05-R4D3-3994 THROUGH 3998
61. POWERWORKS, LLC, 07-R2D4-3769
62. PRE-CON PRODUCTS, INC., 04-R4D3-4686
63. PREFERRED MEALS SYSTEMS, INC., 06-R3D1-2007
64. QCA CORP. dba ANGELUS MFG., 07-R3D3-2935
65. R H CAGLE DRYWALL CO., 07-R3D1-1285
66. R & L BROSAMER, INC., 06-R3D2-1832

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67. REALTYLAND CO. INC., 07-R3D5-2957
68. RITE-AID, 07-R2D5-1626
69. SADDLEBACK DEVELOPMENT CORPORATION, 06-R3D1-3138 THROUGH 3140
70. SIERRA PACKING, 06-R3D2-4134 THROUGH 4136
71. SINCLAIR CONCRETE, 06-R2D1-3354 AND 3355
72. SKANSKA USA BUILDING, INC., 06-R2D4-5270
73. SOUTHERN CALIFORNIA EDISON, 06-R3D1-206
74. SOUTH VALLEY ELECTRI COMPANY, 06-R1D2-2101 THROUGH 2105
75. STREAMLINE CIRCUITS CORP., 07-R1D2-2092 AND 2093
76. T D W CONSTRUCTION, INC., 06-R2D1-3709 AND 3710
77. TWE ENTERPRISES, 05-R1D2-3179
78. TAKE SUSHI INC. dba CHEF K'S BURGER, 07-R3D1-1920
79. TANK & REFINERY SERVICES, 07-R3D5-0509 THROUGH 0511
80. TAURUS CONTROL CORPORATION, 07-R3D5-1715 THROUGH 1717
81. TEIXEIRA FARMS, 06-R3D2-2226
82. THE BOX & CONTAINER COMPANY, 06-R1D3-1025 AND 1026
83. TOMMY T'S BODY PIERCING, 05-R3D1-514 THROUGH 516
84. TOP INSTALLERS, INC., 05-R6D2-2267 THROUGH 2269
85. U. S. A. ALLGLASS, INC., 06-R2D1-3362 AND 3363
86. ULTIMATE CONSTRUCTION, INC., 07-R4D1-1948 AND 1949
87. VTS SHEET METAL SPECIALIST, 03-R3D1-5122 THROUGH 5132
88. WHITE STEEL, INC., 06-R3D3-2786 AND 2787

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89. WILLIAMS FURNACE COMPANY, 07-R3D3-4396 THROUGH 4400
90. Z & H HAPPY HANDS CAR WASH, 07-R3D1-4133 THROUGH 4135
91. ZUCKERMAN HERITAGE, INC., 07-R2D4-1151

ORDERS DISMISSING APPEALS:

1. APEX INTERNATIONAL DEVELOPMENT, 05-R4D3-3198 AND 3199
2. KYULI/WOORI GARMENT INC., 05-R4D1-3349 THROUGH 3353
3. MODERN PRO PACKAGING, INC., 05-R4D2-3179 THROUGH 3183
4. MOTOR CARGO, 04-R4D4-4591 THROUGH 4593

ORDER DENYING LEAVE TO FILE LATE APPEALS:

NONE

ORDERS GRANTING APPEALS:

1. FIRST PRESBYTERIAN CHURCH OF HOLLYWOOD, 05-R4D1-3340

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. CITY OF LOS ANGELES HOUSING AUTHORITY (HACLA), 05-R4D2-2541
2. RICE FIELD, INC., 07-R6D2-9273
3. 3-D DELIVERY, 07-R4D1-9385

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. CONTROL AIR CONDITIONING CORP., 05-R4D2-1626 AND 1627
2. NORTHRUP GRUMMAN, 06-R1D2-4458
3. RICE FIELD, INC., 07-R6D2-9273

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4. UNIS, INC., 07-R4D2-9308

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. AGC COMMUNICATIONS, INC., 03-R1D4-3121
4. ASC PROFILES, INC., 06-R2D1-1181
5. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
6. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
7. BART, 03-R1D1-5170
8. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
9. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
10. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
11. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BLUE DIAMOND MATERIALS, 02-R5D2-1268
13. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
14. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
15. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
16. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
17. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
18. COX COMMUNICATIONS, 03-R3D2-1942

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19. DADE BEHRING, 05-R2D1-2203
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
21. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
22. DAVIS ROOFING, INC., 05-R3D3-4127
23. DYNALECTRIC, 03-R1D1-4101
24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-0750 AND 0751
28. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
29. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
30. HELPMATES STAFFING SERVICES, 05-R3D3-2239
31. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
32. HUSSMAN CORPORATION, 03-R3D1-2939
33. ILH CONSTRUCTION, 02-R1D1-4172
34. JOHN LAING HOMES, 04-R3D1-194 AND-195
35. JOHNNY'S AUTOMOTIVE REPAIR, 05-R2D1-4076
36. KELLY SERVICES, INC., 06-R1D2-1024
37. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
38. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
39. LONG BEACH CITY COLLEGE, 03-R3D5-2747
40. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
41. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541

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42. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
43. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
44. O& M INDUSTRIES, 04-R1D5-1597
45. PMR RACE CARS, 03-R3D3-1825
46. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
47. RII PLASTERING INC., 02-R3D1-2679
48. R & L BROSAMER, INC., 03-R1D5-4832
49. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH
1656
50. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
51. STACY & WITBECK INC., 05-R1D1-1142
52. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
53. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
54. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
55. TEICHERT AGGREGATES, 04-R5D1-2982
56. TRIO METAL, 03-R4D4-0317
57. UKIAH FORD-LINCOLN-MERCURY, INC. 06-R1D5-2556 AND 2557
58. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
59. WESTERN DOOR, 01-R3D1-2827
60. 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.)

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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. TRIPPLETT MANAGEMENT CORP. dba McDONALD'S RESTAURANT NO. 10660 v OSHAB, CIB464877, (03-4116)
6. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
7. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)
8. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, 01-R3D2-4344-4345
9. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (J.F. SHEA CONSTRUCTION, INC) (01-801) [No Case No. yet.]
10. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (E. L. YEAGER CONSTRUCTION COMPANY, INC.) (01-3261) [No Case No. yet.]

APPELLATE COURT:

NONE.

PERSONNEL (*Issues regarding staff.*)

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