

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), (e) and (f)**  
**for**  
**Wednesday, November 28, 2012**  
**10 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: November 15, 2012**

**RE: Closed Session of the Board to be held on November 28, 2012**

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) 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. GRANITE CONSTRUCTION COMPANY, 10-R2D5-2745
2. LC ROOFING CO., INC. DBA FRANK LOPEZ ROOFING, 11-R4D1-2860
3. MAS LAWNMOVER, INC., 11-R3D1-1844 THROUGH 1847

**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. ABC SECURITY SERVICE, INC., 12-R1D4-1898
2. ABE-EL PRODUCE, 12-R2D5-2187

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 2**

3. ACE ORNAMENTAL, INC., 12-R6D2-0618 THROUGH 0623
4. AEROJET GENERAL CORPORATION DBA AEROJET, 11-R6D1-0900
5. AL MILLER & SONS ROOFING INC., 12-R6D2-0102 AND 0103
6. BARRETT BUSINESS SERVICE, INC., 11-R2D1-0800
7. BAY AREA RAPID TRANSIT DISTRICT, 11-R1D4-2607 THROUGH 2609
8. B.E. McCARTY, INC., DBA McCARTY & SONS TOWING, 12-R4D3-0966  
AND 0967
9. JOHN BERTOLDI INCORPORATED, 11-R1D4-1330 THROUGH 1333
10. BEUTLER CORPORATION, 12-R2D1-0359
11. BOVIS LEND LEASE, INC., 11-R1D4-1491 THROUGH 1494
12. BRIDGESTONE RETAIL OPERATIONS, LLC DBA FIRESTONE, CO.,  
11-R1D1-1871
13. BUILDING INNOVATIONS GROUP INC., 12-R2D3-3034
14. COLD STORAGE MANUFACTURING, INC., 12-R1D4-2706 AND 2707
15. CONSOLIDATED FABRICATORS CORPORATION, 12-R2D1-0001  
THROUGH 0003
16. CORRECT COATINGS, INC., 12-R4D3-0969
17. CRESTWOOD BEHAVIORAL HEALTH CENTER, 11-R2D5-0953
18. DCL CORPORATION, 12-R3D6-0814 AND 0815
19. DOUGLASS COLONY GROUP, INC., 12-R3D6-0501 AND 0502
20. DRILL TECH DRILLING & SHORING, INC., 11-R5D2-2803
21. EXPRESS SERVICES, INC. DBA EXPRESS EMPLOYMENT  
PROFESSIONALS, 12-R2D2-1152
22. FISCHER MOLD, INC., 12-R3D3-1081
23. JASON FONG DBA JC CONSTRUCTION, 11-R1D1-2910 THROUGH 2912

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 3**

24. FRANNEY'S FLOOR COVERING, 12-R2D5-2071 AND 2072
25. KANE CONTRACTING GROUP, INC., 12-R6D5-1302
26. KITCOR CORPORATION, 11-R6D2-3259 THROUGH 3261
27. LINK US, 12-R2D5-1390
28. LYLE PARKS JR., CONSTRUCTION, 12-R4D1-0616
29. MACY'S INC., 12-R1D1-0841
30. McELROY METAL MILL, INC. DBA McELROY METAL, 12-R3D3-2428  
AND 2429
31. MEGA MAINTENANCE & SERVICE, INC., 11-R2D2-2927 THROUGH 2934
32. MSR HOSPITALITY SYSTEMS, INC. DBA CLAREMONT HOTEL,  
12-R1D4-2618 THROUGH 2619
33. OLIVER AND COMPANY, INC., 11-R2D2-1977
34. PACIFIC COAST SUPPLY, LLC., 12-R1D4-0347
35. PADILLA CONSTRUCTION, 11-R3D2-3226
36. PREVENT LIFE SAFETY SERVICES, INC., 12-R1D4-2218
37. QUALITY BUILDING CONSTRUCTION INC., R4D1-1573
38. RACKS UNLIMITED, INC., 12-R6D2-2119 THROUGH 2121
39. RAIN BI, INC., 12-R6D5-1919 AND 1920
40. RJC BUILDERS, INC., 12-R4D1-0283 AND 0284
41. ROSS STORES, INC., DBA ROSS DRESS FOR LESS, 11-R1D1-2122  
AND 2123
42. SACRAMENTO CITY FIRE DEPARTMENT, 11-R2D1-2220
43. SANTA ANA UNIFIED SCHOOL DISTRICT, 12-R3D1-1680
44. SHINE FOOD INC., 12-R4D1-0016 AND 0017

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 4**

45. SOUTHERN CALIFORNIA EDISON CO., 12-R3D3-0499
46. SPEC FORMLINERS, INC. [cited as SPEC FORMLINES INC], 12-R3D1-0916 THROUGH 0918
47. STATE OF CALIFORNIA, CALIFORNIA MEDICAL FACILITY, 12-R2D2-0774
48. SUNRISE SENIOR LIVING INC., DBA SUNRISE SENIOR LIVING, 12-R6D1-1506 THROUGH 1510
49. SUPER FRANKS, LLC, 11-R1D4-2655
50. SUPER STORE INDUSTRIES DBA SUNNYSIDE FARMS, 12-R2D2-1153
51. THE PHO BAR, LLC, 12-R1D4-1246
52. TESLA MOTORS, INC., 12-R1D2-2698
53. THE NEVELL GROUP, INC., 12-R3D1-0442
54. UPS GROUND FREIGHT, INC., DBA UPS, 11-R1D4-1102
55. WHOLE FOODS MARKET, 11-R3D5-2744
56. WORKFORCE OUTSOURCING INC., DBA WORKFORCE STAFFING, 12-R2D1-0005 THROUGH 0007

**ORDER ON REMAND:**

1. BLUE DOT CAFÉ AND COFFEE BAR, 11-R1D4-0523

**ORDER DISMISSING APPEAL:**

1. APEX LIFE, INC., 12-R1D4-0738
2. SUMMIT SALES, INC., 11-R6D1-3254 THROUGH 3255
3. WALLDESIGN INCORPORATED, 12-R1D4-0875

**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*

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 5**

*Judge. The Appeals Board must decide to grant or deny each petition.)*

1. LUIS & MIGUEL AGUIRRE DBA AGUIRRE CUTTING SERVICE,  
12-R6D5-2869-2872
2. PERSONNEL PLUS, INC. 2011-R3D5-1302
3. UNITES STATES COLD STORAGE OF CALIFORNIA, 11-R2D4-1342

**DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):**

1. CICILIO LANDSCAPES, INC., 11-R4D3-9180
2. D & A BUILDERS, INC., 12-R1D1-9067
3. HADDADS CLEANERS LLC DBA FIVE STAR CLEANERS, 09-R2D1-2358
4. LUDIVINA LOPEZ-HERNANDEZ DBA OLIVAS TIRES & WHEELS,  
11-R6D7-1965 & 1966
5. NF ROBBIE ROBINSON DBA ROBINSON'S REMODELING, REPAIR & HOME  
INSPECTION, 09-R2D1-1106

**MATTERS PENDING RECONSIDERATION:**

*(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)*

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
6. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
7. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239  
THROUGH 2241
8. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445  
AND 3448
9. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 6**

10. CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775
11. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
12. CENTRAL VALLEY ENGINEERING & ASPHALT, INC., 08-R2D1 5001  
AND 5002
13. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
14. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
15. COMMERCIAL METAL FORMING, 09-R3D1-1592
16. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
17. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
18. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
19. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
20. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
21. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
22. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
23. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,  
09-R6D2-2325 THROUGH 2332
24. EZ MIX, INC., 08-R4D3-1898
25. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
26. HOME DEPOT, 10-R3D6-3284
27. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
28. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
29. IRWIN INDUSTRIES, 08-R6D4-1454
30. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
31. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 7**

32. LION RAISINS, INC., 08-R2D5-2253 AND 2254
33. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
34. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
35. MARINE TERMINALS, 08-R6D2-1920
36. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
37. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
38. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
39. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
40. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
41. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
42. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
43. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
44. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
45. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
46. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
47. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
48. SMUD, 08-R2D1-4887 THROUGH 4889
49. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
50. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
51. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
52. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
53. VAN EVERY CONSTRUCTION, INC., 11-R1D4-0936 AND 0937

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 8**

**LEGISLATION:**

**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. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
2. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
3. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
4. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430  
(09- 9280/9281)
5. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047  
(07-R5D1-3611)
6. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,  
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
7. SMUD, 34-2010-80000723 (08-R2D1-4887)
8. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
9. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
10. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965  
(10-0188~0191)
11. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010  
(08-R2D1-3273)
12. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459  
THROUGH 2461)
13. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
14. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR NOVEMBER 28, 2012**

**Page 9**

15. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039  
(07-R2D3-0275)
16. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
17. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
18. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
19. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
20. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
21. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219  
AND 0220)
22. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
23. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258  
(05-R2D4-2650 AND 2651)
24. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
25. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
26. PRESTON PIPELINES, INC., 34-8012-80001277 (09-R6D7-3345)
27. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)

**PERSONNEL:** *(Issues regarding staff.)*

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