

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, April 2, 2008
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: March 22, 2008

RE: Closed Session of the Board on April 2, 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. 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. COMMAND ACCESS TECHNOLOGIES, 07-R3D1-0567 THROUGH 0569
2. GENERAL COATINGS CORP., 05-R3D7-4283 THROUGH 4285

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-C ELECTRIC COMPANY, 06-R4D3-341
2. ADVANCE POLYMER TECHNOLOGIES, 04-R2D4-4656
3. AMERICAN ROTAY BROOM CO. INC., 06-R6D2-2945 THROUGH 2950

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4. AMERICAN ROTARY BROOM CO. INC., 06-R6D2-2957 THROUGH 2961
5. AMERICAN ROTARY BROOM CO. INC., 06-R6D2-3298 THROUGH 3305
6. AMERICAN ROTARY BROOM CO. INC., 06-R6D2-3319 THROUGH 3326
7. BARRON'S TILE INC., 07-R2D5-3957
8. BIG WEST OF CALIFORNIA LLC, 07-R3D7-3468 AND 3469
9. BYLDAN CORPORATION, CLARUM HOMES, LLC, CLARUM LIBERTY POINTE, LP, 07-R1D4-838 THROUGH 840
10. JAMES LUIS CARR DBA: JIM CARR CONSTRUCTION, 07-R4D3-1076 AND 1077
11. CILANTRO'S MEXICAN RESTAURANT, 07-R2D1-2309 THROUGH 2311
12. CITY OF SIGNAL HILL, 07-R3D5-2226
13. CLUNE CONSTRUCTION CO., 07-R4D1-665 AND 666
14. TIM GUGAN DBA TIM DUGAN DRYWALL, 07-R2D1-2313 AND 2314
15. DWAYNE'S ENGINEERING & CONSTRUCTION, 07-R4D3-0338
16. FENCE WORKS, INC., DBA: GOLDEN STATE FENCE CO., 07-R4D3-4570
17. FIRST PACIFIC DEVELOPMENT INC., 07-R4D1-3590 THROUGH 3592
18. GW HEINEKE COMPANY, INC., 06-R6D2-2522 AND 2523
19. GENERAL PALLETS, INC., 07-R2D4-0290 THROUGH 0292
20. GRANITE CONSTRUCTION COMPANY, 07-R5D1-785
21. INLINE CONSTRUCTION [THE ORTIZ COMPANY], 06-R3D3-5070 AND 5071
22. J-M MANUFACTURING CO INC – J-M PIPE MFG CO – FONTANA, 07-R3D3-1183 AND 1184
23. JR CUSTOM HARVESTING CO INC., 07-R1D4-4078
24. K & L GENERAL ENGINEERING INC., 07-R2D1-2312
25. KPRS CONSTRUCTION SERVICES INC., 06-R3D1-5275 AND 5276

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26. LIGHTWAY INDUSTRIES, 06-R4D3-342 AND 343
27. LOYA TRANSPORTATION, INC., 06-R4D3-620 AND 621
28. MODULAR STRUCTURES INTERNATIONAL INC., 07-R6D2-2273
29. MON-MAY ENTERPRISES INC., 06-R3D3-2476 AND 2477
30. O'TASTY FOOD, INC., 07-R4D4-0216 THROUGH 0220
31. ONE WEEK BATH, 06-R4D2-2052 THROUGH 2055
32. PLANT CONSTRUCTION COMPANY L.P., 06-R1D1-4671
33. POLY-TRAINER, INC., 06-R4D3-622 AND 623
34. POUKE & STEINLE, INC., 05-R4D4-4005 THROUGH 4007
35. POUKE & STEINLE, INC., 06-R3D3-556 AND 557
36. PROFESSIONAL PIPELINE CONTRACTORS, 06-R4D3-4538 AND 4539
37. SECURITY PAVING COMPANY, 06-R4D3-1461 AND 1462
38. SERENATA, 07-R3D3-2623 THROUGH 2625
39. SINANIAN DEVELOPMENT INC., 07-R4D1-663 AND 664
40. SMITH EMERY, 07-R4D1-2428
41. WCP SERVICES, INC. DBA VENTURE BUILDERS, 07-R1D1-3084
42. WASH MASTERS, INC., 07-R4D3-2239
43. WILCOX AGRI-PRODUCTS, 06-R2D1-4010-4011
44. WILCOX & WILCOX, 07-R4D3-0931 THROUGH 0933

ORDERS DISMISSING APPEALS:

1. HERNANDEZ PRODUCE, 08-R3D2-9137
2. NEW LIFE TREE SERVICE, 08-R1D2-9145
3. WORKFORCE OUTSOURCING, INC, 06-R3D1-349

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ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. DBA CALIFORNIA CRISP, 08-R6D2-9138
2. LUIS MICHEL DBA LUIS CUEVA MICHEL, 08-R2D1-9147
3. MONAMI FASHION INC., 08-R4D2-9128
4. NATIONAL ELECTRIC & CABLE INC., 08-R3D1-9150
5. 99 CENT ONLY STORE, 08-R2D1-9148
6. DR. TIMOTHY J. ROSSIO, MD DBA ANEW SKIN DERMATOLOGY, 08-R2D1-9149
7. UNION DENTAL, 08-R1D4-9135

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

1. BUENA GEOTECHNICAL SERVICES LLC, 08-R4D3-1162 AND 1163
2. GENESIS CONSULTING INC., DBA PANDA HOUSE, 08-R3D1-1057
3. GOLDEN STATE REEL & CRANE, INC., 08-R2D5-1048 THROUGH 1051
4. IRONWOOD DOORS LLC, 08-R6D2-1173 THROUGH 1175
5. LOS ANGELES UNIFIED SCHOOL DISTRICT, 08-R4D4-1059
6. McCARATHY CLARK HUNT, MCH, A JOINT VENTURE
7. MELKONIAN FARMS, 08-R2D5-1052 THROUGH 1056
8. JOHN O'NEILL & RUSSELL MEEHAN DBA MEEHAN CONSTRUCTION, A PARTNERSHIP, 08-R2D1-1044 THROUGH 1047
9. PHILIP SIMON DEVELOPMENT USA, INC., 08-R4D1-1158 THROUGH 1159

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ORDERS GRANTING APPEALS:

NONE

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. DHL EXPRESS, 07-R3D5-9422
2. GENERAL TRUSS CO., INC., 06-R2D1-0782 THROUGH 0784
3. INDUSTRIAL MASONRY, INC., 07-R3D2-0735 AND 0736
4. MARIANI PACKING, INC., 07-R2D3-9574
5. PRODUCTION ROOFING & SHEETMETAL, 07-R3D3-9544
6. ULTIMATE CONSTRUCTION, 05-R4D2-378 AND 379 AND 05-R4D2-2465

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

KHS&S CONTRACTORS, 06-R3D2-2759 AND 2760

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. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. AC FRAMERS INC., 03-R2D3-3475
3. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
4. ASC PROFILES, INC., 06-R2D1-1181
5. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106

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8. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
9. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
11. BLUE DIAMOND MATERIALS, 02-R5D2-1268
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
14. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
15. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
16. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
17. COX COMMUNICATIONS, 03-R3D2-1942
18. DADE BEHRING, 05-R2D1-2203
19. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
20. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
21. DYNALECTRIC, 03-R1D1-4101
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
25. GLASS PAK, 03-R2D2-0750 AND 0751
26. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
27. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
28. HELPMATES STAFFING SERVICES, 05-R3D3-2239
29. HUSSMAN CORPORATION, 03-R3D1-2939
30. ILH CONSTRUCTION, 02-R1D1-4172
31. JOHN LAING HOMES, 04-R3D1-194 AND-195

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32. KELLY SERVICES, INC., 06-R1D2-1024
33. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
34. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
35. LONG BEACH CITY COLLEGE, 03-R3D5-2747
36. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
37. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
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. R & L BROSAMER, INC., 03-R1D5-4832
43. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654
THROUGH 1656
44. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
45. STACY & WITBECK INC., 05-R1D1-1142
46. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
47. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
48. TEICHERT AGGREGATES, 04-R5D1-2982
49. TRIO METAL, 03-R4D4-0317
50. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
51. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
52. WESTERN DOOR, 01-R3D1-2827
53. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 AND 3018

PENDING LITIGATION:

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(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. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
2. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
3. MURRAY COMPANY, BS112469 (07-9190-9192)
4. 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)
5. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
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, (01-4344-4345)
9. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (J.F. SHEA CONSTRUCTION, INC) 34-2007-00882187-CU-WM-GDS, (02-801)
10. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (E. L. YEAGER CONSTRUCTION COMPANY, INC.), 34-2007-00882192-CU-WM-GDS, (01-3261)

APPELLATE COURT:

NONE.

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.)

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NONE.

PERSONNEL: *(Issues regarding staff.)*

NONE.

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