

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, February 20, 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: February 6, 2008

RE: Closed Session of the Board on February 20, 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. G. T. ALDERMAN, INC., 05-R4D3-3513
2. SANTA CRUZ COUNTY ANIMAL SERVICES, 05-R1D2-2606

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. ALCOA FASTENING SYSTEMS, 07-R3D1-4383
2. ALL AMERICAN SCAFFOLD 07-R1D1-0709
3. ALLIED DISTRIBUTION, 06-R4D3-2868 AND 2869

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4. ALLIED WASTE, 07-R6D2-4281 THROUGH 4283
5. AMTECH LIGHTING SERVICES, 07 R4D3-4453
6. ASSOCIATED READY MIX CONCRETE INC., 07-R5D3-3269,
07-R5D3-3355 AND 3356
7. ATASCADERO GLASS, 06-R4D3-3458
8. AVALON ROOFING CONTRACTORS, INC., 06-R3D5-4778 AND 4779
9. B & B GOLF COURSE PROPERTIES LLC., 07-R1D2-1994 AND 1995
10. BAY CITY FRAMERS, 06-R4D1-5304 AND 5305
11. BIMBO BAKERIES USA, 06-R1D3-4202
12. BRINCAT CONSTRUCTION, 06-R4D1-4821 AND 4822
13. HUI YUK BUN dba BLUE ANGEL'S FASHION, 07-R1D1-1337
14. CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE 06-R4D3-4649
15. CALIFORNIA STEEL AND TUBE, 07-R6D2-2551 AND 2553
16. CASTON PLASTERING & DRYWALL, INC., 07-R3D3-4884 AND 4885
17. CENTRAL VALLEY TRUCKING, 07-R5D1-1321
18. CHIEFTAN HARVESTING INC., 06-R3D2-2473 THROUGH 2475
19. CLP RESOURCES, 06-R4D3-3589
20. COBRA PERFORMANCE BOATS, INC., 07-R6D2-1760 THROUGH 1763
21. CUTTER LUMBER PRODUCTS, 07-R6D1-0678 THROUGH 0695
22. DHL EXPRESS (USA), INC., 07-R1D4-0721
23. EL BAJIO PACKING, INC., 06-R4D3-3789
24. ENVIROMENTAL LANDSCAPE SERVICE, INC., 07-R4D1-1877 AND 1878
25. EURO COFFEE, 06-R4D2-336 AND 337
26. EUROPEAN PANEL PRODUCTS, 07-R3D2-1630 AND 1631

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27. F & T FARMS, 07-R2D5-1683
28. FAIRFIELD-SUISUN USD TRANSPORTATION DEPT., 07-R2D2-0377
29. FEDERAL EXPRESS CORPORATION dba FEDEX EXPRESS 06-R6D1-4094
30. FOREFRONT BUILDERS CORPORATION, 06-R4D1-5312 THROUGH 5315
31. GARY FU FAMILY CORPORATION dba FU PALACE, 06-R4D1-4976
32. GOOD EARTH TEAS, INC., 07-R1D2-1997
33. GRANITE CONSTRUCTION COMPANY, 06-R5D1-3801 AND 3802
34. GRANITE CONSTRUCTION COMPANY, 07-R5D2-1747
35. HALLMARK PACKING CO., 07-R6D2-0703
36. HALLMARK PACKING COMPANY, 07-R6D2-1757 THROUGH 1759
37. HARPREET – MANJIT, 07-R2D3-0725
38. HENRY HILL & COMPANY, 07-R1D5-2365
39. HOLT OF CALIFORNIA, 07-R2D1-1523 AND 1524
40. IMPAC LOGISTIC SERVICE INC., 06-R3D5-326 THROUGH 329
41. JELD-WEN, INC., 06-R6D2-1361 THROUGH 1365
42. KATLAN INDUSTRIES, INC., 06-R6D2-1701 THROUGH 1711
43. ED KELLER, dba ETK PAINTING, 07-R2D1-3200
44. L. A. CITY FIRE STATION, #61, 06-R4D1-1874
45. L. A. CITY POLICE, 06-R4D1-3771 THROUGH 3774
46. LABOR READY, 07-R1D1-0708
47. LABOR READY, 07-R2D3-3948
48. LM LOADING SERVICES INC., 07-R3D5-3467
49. ALBERTO LUNA, 06-R4D3-3787

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50. M. V. TRANSPORTATION, 07-R2D2-4024
51. MAJIC CONSTRUCTION CO., 06-R4D1-3207 AND 3208
52. MARTIN-BROWER CO., LLC 07-R2D4-2911
53. MASTER TECH, 06-R4D4-1893
54. METROPOLITAN STEVEDORE CO., 06-R6D2-1381
55. NORCAL WASTE SYSTEMS, INC., 07-R6D2-4517 THROUGH 4520
56. NURSETECH INC., 07-R2D3-0726
57. OLIVER'S ARTISIAN, 07-R6D2-4769 THROUGH 4774
58. ORGANIC MILLING CO., 07-R4D4-0676 AND 0677
59. OWENS-BROCKWAY GLASS CONTAINER INC., 06-R4D2-1636
THROUGH 1638
60. PALO ALTO HILLS GOLF & COUNTRY CLUB 07-R1D2-3004
61. PARAMOUNT PETROLEUM CORP., 07-R3D5-2114
62. PENN INDUSTRIES, INC., 07-R3D5-2373 AND 2374
63. PETERSEN-DEAN INC., 07-R1D2-0716
64. PORT OF LOS ANGELES, 06-R3D5-4975
65. PPL, INC., dba PRIVATE LABEL LABORATORIES 04-R3D1-4398 THROUGH
4400 AND 05-R3D1-1907
66. PREFERRED FRAMING INC., 05-R3D3-030
67. PREMIER ROOFING, 06-R3D2-3745
68. PROTRADES CONNECTION, 07-R1D5-1999
69. RELIANCE UPHOLSTERY SUPPLY, 06-R4D2-612 THROUGH 615
70. RMS CONSTRUCTION INC., 07-R4D1-2529 AND 2530
71. SALVADOR RODRIGUEZ, 06-R4D3-617 AND 618

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72. ROSSCRETE ROOFING INC., 06-R3D3-558 AND 559
73. SAN JOSE AIRPORT, 07-R1D2-1996
74. SIERRA PACKING, 06-R3D2-3900 AND 3901
75. SIGN TRENDS, INC. dba SIGN-WIZE, 07-R4D4-2372 THROUGH 2377
76. EDWARD SILVA, 07-R2D4-1621 THROUGH 1624
77. SKY WEST AIRLINES INC., 07-R2D3-1370
78. SO CO GROUP, 06-R3D2-3744
79. SOPHIA TWO, INC. dba BLESSING'S HAND CAR WASH 07-R3D1-4245
THROUGH 4247
80. SPEC IRON INC., 07-R6D2-3725
81. BARBARA STIEBERT, AS TRUSTEE OF SYCAMORE FAMILY
TRUST 07-R2D3-3947
82. SUNRISE FARMS, 07-R3D2-3207 AND 3209
83. SUNWEST INDUSTRIES, INC. dba ALL-SAFE POOL SAFETY BARRIERS
07-R6D2-4576 AND 4577
84. SUPERIOR STAFFING SOLUTIONS INC., 07-R3D3-2722
85. T & R LUMBER COMPANY, 06-R3D3-1432 THROUGH 1434
86. TAFT MANUFACTURING, 05-R3D7-3334 AND 3335
87. GARRISON TARNOW PAINTING, INC. 07-R3D3-1185
88. THERMAL MECHANICAL, 07-R1D2-0710
89. TOBYCO BUILDERS, 06-R4D3-075 THROUGH 079
90. C. E. TOLAND & SON, 06-R6D1-0675 AND 0676
91. TOP SHELF FIXTURES, 05-R6D2-4644 THROUGH 4651
92. TOWNSHIP BUILDING SERVICES, INC., 06-R1D1-3692 AND 3693
93. UFO DESIGN, 07-R6D2-1751 THROUGH 1756

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94. U. S. AIR CONDITIONING DISTRIBUTORS, 04-R3D1-2548 THROUGH 2550
95. VALLEY PRIDE INC., 07-R6D2-0707
96. VALLEY TOOL & MACHINE CO., INC., 07-R4D4-1741
100. VALU-PAK, dba IMPERIAL PLANTATION, 06-R3D2-3414
101. VANGUARD CAR RENTAL USA, INC., 07-R1D2-2559 THROUGH 2561
102. TOM VANMALKENHORST dba LLOYD INSULATION, 06-R3D5-4972
THROUGH 4974
103. VERTIS COMMUNICATIONS, 07-R4D4-3715
104. VEST, INC., 07-R6D2-4167 THROUGH 4175
105. WADE METAL PRODUCTS, 06-R1D1-3333 AND 3334
106. WEBER DISTRIBUTION, 06-R3D3-1431
107. WESLAR, INC., 06-R4D3-3587 AND 3588
108. WEST COAST AGGREGATES, INC., 07-R5D1-1744 AND 1745
109. JAY D. WRIGHT, dba J-WAY CONSTRUCTION, 07-R3D3-2715
110. XEROX CORPORATION, 07-R3D5-3815
111. JERRY YANG dba: LUXURY LINE CAR WASH 06-R3D3-2251 THROUGH 2254
112. YHK TRANSPORTATION, INC. 06-R3D5-5296 AND 5297
113. YOSEMITE MEAT COMPANY, INC., 07-R2D4-3953

ORDERS DISMISSING APPEALS:

1. COMMERCIAL ROOFING SYSTEMS, INC., 06-R4D3-1640 THROUGH 1641
2. R & D PROPERTIES, 06-R3D2-1833 THROUGH 1835
3. ULTIMATE CONSTRUCTION, 05-R4D2-378 AND 379, AND 05-R4D2-2465

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

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1. SALVADOR GUITERREZ dba ESP FASHIONS, 07-R4D1-9524
2. OLIVERAS PLASTERING, 08-R1D2-9042
3. GEORGE RODRIGUEZ FARM LABOR, 08-R2D5-9036

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

1. AIR INDUSTRIES COMPANY, 08-R3D5-0438 AND 0439
2. AIS CONSTRUCTION, 08-R2D3-0388
3. STEVE ALLEN INDIVIDUAL dba ALLEN PAINTING 08-R2D3-0396 THROUGH 0398
4. CUSTOM HOME DEVELOPMENT, 08-R3D1-0410 AND 0411
5. G & A REFRIGERATION, 08-R3D5-0437
6. L. F. GEORGE CONSTRUCTION CORP., 08-R1D1-0361 THROUGH 0363
7. GSL TRANSPORTATION SERVICES, INC. dba GOLDEN STATE, 08-R4D2-0449
8. NI CHING HSIANG FISH FARM, 08-R3D3-0429 AND 0430
9. SERVICE SCAFFOLD CO., INC., 08-R1D1-0357 AND 0360
10. US TRADES LLC., 08-R1D5-0381 AND 0382

ORDERS DENYING LEAVE TO REOPEN APPEALS:

NONE.

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. GILL LAND COMPANY, 05-R2D5-978 THROUGH 980

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2. TAMAG ELECTRIC, 07-R2D5-9454
3. WEBCOR CONSTRUCTION, INC., dba WEBCOR BUILDERS, 06R1D1-2093 THROUGH 2095

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

NONE.

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
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

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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. GRAND BUILDERS, 07-R4D3-9344
27. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
28. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
29. HELPMATES STAFFING SERVICES, 05-R3D3-2239
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172
32. JOHN LAING HOMES, 04-R3D1-194 AND-195
33. KELLY SERVICES, INC., 06-R1D2-1024
34. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
35. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
36. LONG BEACH CITY COLLEGE, 03-R3D5-2747
37. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
38. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541

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39. O & M INDUSTRIES, 04-R1D5-1597
40. PMR RACE CARS, 03-R3D3-1825
41. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
42. RII PLASTERING INC., 02-R3D1-2679
43. R & L BROSAMER, INC., 03-R1D5-4832
44. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654
THROUGH 1656
45. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
46. STACY & WITBECK INC., 05-R1D1-1142
47. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
48. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
49. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 AND 2614
50. TEICHERT AGGREGATES, 04-R5D1-2982
51. TRIO METAL, 03-R4D4-0317
52. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
53. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
54. WESTERN DOOR, 01-R3D1-2827
55. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 AND 3018

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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. 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.

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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.)

DISCUSSION OF BOARD PROCEDURES WHEN AN EMPLOYER FILES A PETITION FOR RECONSIDERATION WITH THE DIVISION AND NOT THE BOARD.

PERSONNEL: *(Issues regarding staff.)*

NONE.

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