

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, October 7, 2009
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: September 25, 2009

RE: Closed Session of the Board to be held on October 7, 2009

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. J & B FARMING, 08-R2D5-0302
2. PATRICIA SANCHEZ, 09-R4D3-0266 AND 0267
3. Y & B ENTERPRISES DBA SUPER BUY MARKET, 09-R4D1-1485 AND 1486

ORDERS OF ADMINISTRATIVE LAW JUDGES:

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(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. AB & I, INC., 08-R1D4-2827
2. ADVANCO FIRE PROTECTION, INC., 08-R3D3-3938 THROUGH 3941
3. AURORA CASTING & ENGINEERING, INC., 09-R6D2-2608
4. B & B DEMOLITION, 08-R2D2-3188 AND 3189
5. BEDROCK INVESTMENTS, INC. DBA BEDROCK CONSTRUCTION, 08-R6D7-1574
6. BIDART BORTHERS, 08-R6D5-3811 AND 4276
7. ANDREW C. BLAKE DBA THE RAGGED SAILOR GALLERY & FRAMERY, 08-R1D5-3926
8. BLUE STAR METALS, 09-R3D3-1006
9. BUNTICH PACIFIC JV, 09-R5D2-1681
10. CAMPBELL SOUP SUPPLY CO. LLC, 09-R2D1-2494
11. CITY OF PACIFICA, 09-R1D3-2349 AND 2350
12. COUNTY OF MARIN DENTAL SERVICES, 09-R1D5-2318
13. DAVIS ENTERPRISES, 09-R4D3-0994
14. DAVIS WIRE, 08-R4D4-3545 THROUGH 3549
15. DOW CHEMICAL COMPANY DBA UCAR EMULSION SYSTEM, 09-R6D4-2442
16. JOHN AND LANI ESTIL, INDIVIDUALLY DBA ESTIL RANCHES LLC, 08-R2D3-0399
17. FROG HOLLOW FARM, 08-R6D5-4870 THROUGH 4875
18. HENCKLES & McCOY, INC., 09-R1D2-1175 AND 1176
19. HERACLES ENERGY CORP. DBA PROMETHEUS ENERGY, 09-R6D4-0915

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- AND 0916
20. HILL CRANE SERVICE, INC., 08-R3D3-4091 AND 4092
 21. LIU YI HUI DBA DRAGON EXPRESS, 09-R6D5-1031
 22. IDEA TOOLING AND ENGINEERING, INC., 08-R3D5-3594 AND 3595
 23. JFL CONSTRUCTION, INC., 08-R2D3-2758
 24. JUDSON ENTERPRISES DBA K-DESIGNERS, 08-R1D4-3824 AND 3825
 25. KIM WONG PLUMBING, INC., 08-R4D4-4819 AND 4820
 26. LOS PADRES ORCHID CO., 09-R6D5-0088
 27. N.J. KANN PAINTING, INC., 08-R1D2-1194 AND 1195
 28. O'DONNELL PLASTERING, INC., 08-R1D2-3615 AND 3616
 29. OIL WELL SERVICE CO., 09-R3D5-1944 AND 1945
 30. ANTONIO OLMOS DBA BLUE MARBLE AND GRANITE, 09-R3D1-2502 AND 09-R3D1-3042
 31. OLSON AND CO. STEEL, 09-R1D4-0876
 32. PAJ CUSTOM HARVESTING, INC., 09-R2D5-0068 AND 0069
 33. PINNER CONSTRUCTION COMPANY, INC., 09-R4D3-0914
 34. QUEBECOR WORLD, INC., 08-R3D3-3954 THROUGH 3956
 35. QUI VO TRAN DBA WEBERS AUTO BODY & SALES, 09-R6D5-0311 AND 0312
 36. RIO FARMS LLC, 09-R6D5-1174
 37. ROY O. HUFFMAN ROOF COMPANY, 08-R4D4-3544
 38. SCHUFF STEEL COMPANY, 08-R1D4-3789 AND 3790
 39. SHEPHERD SALAD, INC., 09-R6D5-0185 THROUGH 0187
 40. TOP-SHELF FIXTURES LLC, 08-R3D3-4786 THROUGH 4788

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41. VERIZON, 09-R3D6-1444

42. WAN'S II AUTO BODY SHOP, INC., 09-R6D5-0566 AND 0577

ORDER AFTER REMAND:

1. ADAPTECH CORPORATION, 06-R3D1-4036

ORDER DISMISSING APPEALS:

1. LOLOS FARM LABOR MANAGEMENT, 07-R2D4-2017 AND 2018

ORDER DENYING-DISMISSING LATE APPEALS:

1. MCM CONSTRUCTION, INC., 09-R2D3-9230

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. AFG INDUSTRIES, INC. DBA AFG GLASS, 09-R3D3-9230

ORDER GRANTING APPEAL:

1. ALL PHASE EXCAVATING SERVICE, INC., 07-R1D1-4799

ORDER GRANTING LEAVE TO PROCESS APPEALS AS TIMELY:

1. AVON PRODUCTS, INC., 09-R6D4-9129

ORDER TO SHOW CAUSE WHY SANCTIONS SHOULD NOT BE IMPOSED:

1. SYED HUSSAIN, INDIVIDUALLY DBA AL AZHAR MARKET, 09-R3D2-2153
THROUGH 2155

STIPULATION:

1. DHV INDUSTRIES, 07-R2D5-4859 AND 4860

PETITIONS FOR RECONSIDERATION:

1. CITY WAY, 09-R6D5-9105

2. MISSION HILLS CONSTRUCTION CO., 07-R3D2-9302

3. ORIGINAL SIXTEEN TO ONE MINE, INC., 01-R5D1-7888 AND 7889

4. PASO ROBLES TANK, INC., 08-R4D5-4711

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5. PMI PERRYMAN MECHANICAL, INC., 08-R2D1-2593
6. POWER FREIGHT SYSTEMS, 06-R1D4-3347
7. ROSECRANS CAR WASH, 08-R6D5-9342

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. WEBCOR CONSTRUCTION, LP DBA WEBCOR BUILDERS, 08-R1D2-2499
AND 2500

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. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. ABACHERLI DAIRY, 08-R3D3-5028
4. ABLE SERVICES, 08-R4D1-4397 AND
5. AC FRAMERS INC., 03-R2D3-3475
6. AC TRANSIT, 08-R1D4-0135
7. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
8. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
9. ARBORICULTURAL SPECIALTIES INC., DBA PROFESSIONAL TREE CARE
CO., 08-R1D4-0799
10. ANNING-JOHNSON COMPANY, 06-R1D3-1976
11. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
12. BART, 03-R1D1-5170
13. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
14. BIMBO BAKERIES USA, 05-R6D2-0856 AND 0857
15. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429

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16. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
17. BURTON L. SILVA FARMS, 09-R1D2-1498
18. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
19. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
20. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
21. CALIFORNIA FRESH FARMS, 06-R2D4-4127
22. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
23. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
24. CITY OF POWAY, DEPARTMENT OF PUBLIC WORKS, 09-R3D2-2165 AND 2166
25. CLINE CELLARS, INCL., 08-R1D5-2946
26. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
27. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
28. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
29. CORE GENERAL CONTRACTOR DBA CORE BUILDERS, 08-R1D2-1379
30. CVS PHARMACY GARFIELD BEACH, LLC, 09-R3D1-0571
31. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
32. D'QUALITY SERVICE, INC., 08-R4D4-3454
33. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
34. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
35. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
36. JOHN DeVINCENZO, 09-R4D3-0515 THROUGH 0517
37. DESIGN BUILDERS, INC., 08-R4D4-1901

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38. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
39. DUKE PACIFIC, INC., 08-R3D3-574
40. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
41. DUININCK BROS., INC., 06-R4D3-2871
42. DYNALECTRIC, 03-R1D1-4101
43. E C U, INC., 09-R3D5-1094 AND 1095
44. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
45. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
46. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
47. FORTUNA IRON WORKS 06-R2D3-4222
48. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
49. G.T. ALDERMAN, INC., 05-R4D3-3513
50. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
51. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
52. GLASS PAK, 03-R2D2-750 AND 751
53. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
54. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
55. H. WAYNE LEWIS, INC., DBA AMBER STEEL CO., 09-R3D3-2016 AND 2017
56. HB PARKCO, 07-R4D2-1730 AND 1731
57. HELPMATES STAFFING SERVICES, 05-R3D3-2239
58. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
59. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
60. HERITAGE OPERATING, LP DBA PRO-FLAME, 09-R3D3-1067

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61. THE HERRICK CORP., 07-R3D1-495
62. HUSSMAN CORPORATION, 03-R3D1-2939
63. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
64. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
65. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
66. J & W WALKER FARMS, 09-R2D1-1949
67. JC PAPER, 08-R1D4-1823 AND 1824
68. JENSEN PRECAST, 05-R2D1-2377
69. JOHN LAING HOMES, 04-R3D1-194 AND 195
70. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
71. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
72. KELLY SERVICES, INC., 06-R1D2-1024
73. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
74. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
75. LARSON STEEL, INC., 08-RID4-4334 AND 4335
76. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
77. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
78. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
79. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
80. MILLENIUM GENERATION, INC., 08-R4D3-5047
81. MITCHELL ENVIRONMENTAL CONCRETE, 09-R4D5-0147
82. MIXED NUTS, INC., 09-R6D2-1420 THROUGH 1422
83. NEW CREATION BUILDERS, 09-R3D1-1460

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84. NUTRAMED, INC., 08-R3D3-4546 AND 4547
85. O & M INDUSTRIES, 04-R1D5-1597
86. PMR RACE CARS, 03-R3D3-1825
87. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
88. PRIME STEEL, INC., 09-R3D6-1523
89. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
90. R & L BROSAMER, INC., 03-R1D5-4832
91. RR DONELLEY, INC., 09-R3D3-2201
92. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
93. SAMTECH AUTOMOTIVE USA, INC. DBA SAMTECH INT'L, INC., 09-R6D2-0688 THROUGH 0692
94. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
95. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
96. SHANKARA IND. DBA RUSS'S AUTO BODY & REPAIR, 09-R6D5-2135
97. SOUTHWEST TRADERS, INC., 08-R2D4-0710 THROUGH 0712
98. STACY & WITBECK, INC., 05-R1D1-1142
99. STAR B RANCH [formerly GALPIN MORORS, INC. DBA STAR B RANCH], 08-R3D2-4894 THROUGH 4896
100. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
101. STREMICKS HERITAGE FOODS, LLC DBA HERITAGE FOODS, 09-R6D2-2663 THROUGH 2667
102. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
103. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
104. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651

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105. TEICHERT AGGREGATES, 04-R5D1-2982

106. TRADER DAN'S DBA ROOMS N. COVERS, ETC., 08-R6D2-4978 THROUGH 4980

107. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557

108. UNITED PARCEL SERVICE, 07-R3D3-3322

109. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095

110. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

111. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

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. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
4. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
8. UNITED AIRLINES (SFO), 07CS00331
9. UNITED AIRLINES (SFO), 34-2009-80000256

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10. XL CONSTRUCTION, SUPERIOR COURT (34-2009-80000300), 08-R1D2-1191
THROUGH 1193

11. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CECG04324 (07-3572)

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)
3. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., G042132

PERSONNEL:

(Issues regarding staff.)

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