

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c), (3), and (e)
for
Wednesday, September 12, 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: August 31, 2007

RE: Closed Session of the Board on September 12, 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. ANZA TENTS, 05-R3D5-3147 AND 3148 (8/23/2007)
2. DEMAR CASTINGS, 05- R6D2-2583 THROUGH 2586 (8/16/2007)
3. ELEGANT DOORS, 05-R6D2-2728 THROUGH 2730 (8/16/2007)
4. KHOSROW (KAZ) FALLAH, OWNER/BUILDER, 06-R1D5-3701, 06-R1D5-4698 (8/21/2007)
5. GREYSTONE SECURITY, 05-R4D2-1364 (8/21/2007)

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6. INDUSTRIAL METAL PROCESSING, INC., VICTOR'S PREMIER PLATING INC., 03-R6D2-4085 THROUGH 4087, 03-R6D2-4077 THROUGH 4084 (8/23/2007)
7. JAY ROBERTS CLEANING COMPANY, 05-R4D3-52 AND 53 (8/16/2007)
8. KNUTH HINGE CO., 06-R2D5-29 (8/30/2007)

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. ADECCO INDUSTRIAL, 06-R3D5-1449
2. AFFORDABLE DETAIL, 07-R2D1-2898
3. AIRPORT SPECIALITY PRODUCTS CONCRETE, INC., 06-R2D5-4252
4. AMBR/AMERICAN MEDICAL BILL, 06-R2D3-5263
5. AMERICAN CIVIL CONSTRUCTORS, 05-R1D2-4353
6. AMERICAN PRESIDENT LINES/EAGLE MARINE SERVICE, 06-R1D4-3346
7. AUTHENTIC SPECIALTY FOODS INC., 05-R4D2-660 THROUGH 662
8. BKB CONSTRUCTION LP, 07-R4D1-2849 THROUGH 2851
9. BABCOCK & WILCOX CONSTRUCTION CO., INC., 05-R1D1-2278 AND 2279
10. BICKERTON INDUSTRIES, INC., 06-R3D5-1610 THROUGH 1612
11. BREA CANON OIL COMPANY, 07-R3D5-407
12. CA DEPT OF GENERAL SERVICES, 05-R1D1-3840
13. CALIFORNIA POOL AND CHEMICAL SERVICE, 06-R3D5-831 AND 832
14. CAL WEST FRAMING, INC., 06-R3D5-3177 THROUGH 3181
15. CITY OF COMMERCE FLOWERS, 07-R4D2-411

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16. CONTRACTORS WARDROBE, INC., 05-R2D1-2903 THROUGH 2905
17. COREY DELTA INC, 06-R5D1-5322
18. CORNERSTONE MASONRY, INC., 07-R1D2-1110 AND 1111
19. DAVE DARRAH dba ARBOR HOMES, 06-R2D3-4466
20. DEL MONTE FOODS CO., 05-R3D5-103
21. DIVERSIFIED MARKETING SOLUTIONS, 06-R3D5-5294
22. DIVERSIFIED UTILITY SERVICES, INC., 07-R2D5-561
23. DOAN'S FORMICA DESIGN, INC., 06-R4D4-3523 AND 3524
24. DONLEY'S ABLE HOME RESTORATION CO., 04-R2D2-4383 AND 4384
25. EXETER-IVANHOE CITRUS ASSN., 05-R2D5-1899
26. GALLETTI & SONS, INC., 07-R6D1-2976 AND 2977
27. GOLDEN PLASTICS CORP., 05-R1D4-1854 THROUGH 1856
28. GOLDEN WEST HOMES, 07-R2D3-1531
29. HOLLYWOOD BED & SPRING MFG. CO., INC., 05-R4D2-4438 THROUGH 4441
30. HYLTON GLASS CO. INC., dba SIERRA GLASS, 05-R2D3-2644 AND 2645
31. J BERRY CO., 07-R4D1-2732 AND 2733
32. JC PAREDES DRYWALL, 07-R4D1-2846 AND 2847
33. JG PLASTICS GROUP LLC, 07-R6D2-1832 THROUGH 1836
34. J & J ENTERPRISES, 07-R6D2-1095 THROUGH 1104
35. JLS CONCRETE PUMPING & CONVEYING, 05-R4D3-4458
36. K-MART CORPORATION, 05-R4D3-3026 THROUGH 3030
37. KORDA & GEIS ENGINEERING, 04-R4D2-3484 AND 3485

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38. L.A. COUNTY OFFICE OF EDUCATION – DIVISION OF SPECIAL EDUCATION, 06-R3D5-2272
39. LAVEYCRAFT PERFORMANCE BOATS INC, 06-R6D2-5338 THROUGH 5345, 06-R6D2-5346 THROUGH 5351
40. MAINSTAY BUSINESS SOLUTIONS, 06-R2D1-206 AND 207
41. MARTIN BROTHERS MARCOWALL, 07-R4D1-2730
42. MASLONKA & ASSOCIATES [INFRA SOURCE TRANSMISSION SERVICES], 05-R2D5-627
43. MITSUBISHI ELECTRIC AUTO AMERICA, INC., 07-R6D2-2923 AND 2924
44. NASHUA CORPORATION, 07-R4D2-1710 AND 1711
45. NUCO INTERNATIONAL, INC., 07-R2D3-3110
46. NUMMI, 07-R1D4-1511 AND 1512
47. O.M. CONTRACTING INC., 04-R3D3-4493
48. OF RAMOS AG LABOR SERVICES, 07-R2D5-1392
49. ONAIR COMMUNICATIONS, INC., 06-R4D1-3769
50. OWENS & MINOR DISTRIBUTION, INC., 06-R4D4-4444
51. PACIFIC SCIENTIFIC ENERGETIC MATERIALS COMPANY, 05-R1D2-4639
52. LAWREN E. PAGE, 06-R3D5-3186
53. PLASKOLITE INC., 06-R3D5-1849
54. POMONA VALLEY HOSPITAL MEDICAL CENTER, 07-R4D4-1459
55. PRECISION PLASTERING, 05-R3D3-3968 THROUGH 3971
56. PREFERRED PERSONNEL OF CALIFORNIA, 06-R3D5-2288
57. QUALITY LIFT TRUCK, INC., 07-R2D4-645
58. RICH DOSS, INC., 05-R2D1-2779

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59. SAM RAMMAHA PAINTING COMPANY INC, 05-R4D3-2256 AND 2257
60. SELECT PERSONNEL SERVICES, 06-R3D5-571
61. SITE, INC., 07-R2D3-1527 AND 1528
62. SKYVA CONSTRUCTION, 05-R2D3-2498
63. SOUTHERN CALIFORNIA EDISON, 07-R3D3-2838 AND 2839
64. SPORTSMEN STEEL SAFE FABRICATING, CO., 06-R3D5-3187 AND 3188
65. STAPLETON-SPENCE PACKING CO., 05-R2D3-2747 AND 2748
66. STATE CENTER ROOFING, 06-R2D5-4248 AND 4249
67. STEVENS CREEK QUARRY, 05-R5D1-2262
68. SUKUT CONSTRUCTION, INC., 06-R4D4-1466
69. SUNNY DELIGHT BEVERAGES, CO., 07-R6D2-1092 THROUGH 1094
70. TAVOLACCI CONSTRUCTION, 06-R2D3-28
71. TWO RIVERS DEMOLITION, INC., 05-R2D1-2382
72. U.S. REMODELERS dba U.S. HOME SERVICES, 06-R1D2-1499 AND 1500
73. V DEVELOPMENT, INC. dba CAPITAL BUILDERS, 05-R2D4-4368 AND 4369
74. VACUUM METAL COATINGS, 06-R3D1-2216 THROUGH 2218
75. VIE-DEL COMPANY, 05-R2D5-883 AND 884
76. WESTERN FABRICATION COMPANY, 05-R3D5-3153 THROUGH 3156
77. WEST VALLEY STAFFING, 06-R1D2-3344
78. WILLY TILE COMPANY, 07-R2D5-647

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ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. BARILLAS TRUCKING, 06-R2D4-2469
2. DOWNEY LINCOLN MERCURY, 06-R4D4-2368
3. JOHNNY'S AUTOMOTIVE REPAIR, 05-R2D1-4076
4. K.D. STEEL, 05-R1D4-2479 THROUGH 2482
5. LUBY'S CHINESE RESTAURANT, 06-R2D5-37
6. SUTTER CONSTRUCTION, INC., 05-R2D3-2795 THROUGH 2800
7. TRINITY VALLEY CONSTRUCTION CO., INC., 05-R2D4-4542 AND 4543
8. WWC SINDOW CLEANING, 05-R1D4-4517

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. ABM INDUSTRIES, INC dba ABM JANITORIAL SERVICES, 07-R1D1-9135 THROUGH 9137
ACTION: Returned from August 29, 2007 Board meeting for initial review.
2. CEJA REYES, INC., 07-R2D3-9216
3. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. HARRINGTON TOOLS, INC., 06-R4D1-2824 THROUGH 2826
2. NASSCO (NATIONAL STEEL & SHIPBUILDING COMPANY) 04-R6D2-2874 THROUGH 3876
3. NASSCO (NATIONAL STEEL & SHIPBUILDING COMPANY) 04-R6D2-3993
4. PEACOCK CONSTRUCTION, INC., 04-R1D1-2851

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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. ADVANCED POLYMER TECHNOLOGIES, 04-R2D4-4656
4. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
5. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
8. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
9. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
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 VALLEY CONTRACTING, 05-R4D3-2351
16. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242
17. COX COMMUNICATIONS, 03-R3D2-1942
18. DADE BEHRING, 05-R2D1-2203
19. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114

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21. DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448
22. DYNALECTRIC, 03-R1D1-4101
23. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
26. GLASS PAK, 03-R2D2-0750 AND 0751
27. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
28. HELPMATES STAFFING SERVICES, 05-R3D3-2239
29. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172
32. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
33. JOHN LAING HOMES, 04-R3D1-194 AND 195
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. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
39. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
40. O& M INDUSTRIES, 04-R1D5-1597
41. PMR RACE CARS, 03-R3D3-1825
42. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
43. RII PLASTERING INC., 02-R3D1-2679

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44. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
45. SPRAY BOOTH TECHNOLOGIES, 03-R3D3-4910
46. STACY & WITBECK INC., 05-R1D1-1142
47. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
48. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
49. TEICHERT AGGREGATES, 04-R5D1-2982
50. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-R3D3-2533 AND 2534
51. TRI-COUNTY, INC., 04-R1D5-3927
52. TRIO METAL, 03-R4D4-0317
53. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
54. WESTERN DOOR, 01-R3D1-2827
55. 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.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

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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. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
6. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)

PERSONNEL *(Issues regarding staff.)*

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