

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Thursday, January 17, 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: January 4, 2008

RE: Closed Session of the Board on January 17, 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. M. BUMGARNER, INC. dba MBI, 06-R2D3-3719
2. GAYLE MANUFACTURING COMPANY, INC., 06-R2D1-3062 AND 3063
3. WEBCOR CONSTRUCTION INC. dba WEBCOR BUILDERS, 06-R1D1-2093 THROUGH 2095

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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. AG BOX COMPANY INC., 06-R4D3-4839
2. ACTION CYLINDER HEADS [RICHARD NASH, INC.], 07-R3D2-1691
3. ADORNO CONSTRUCTION, INC., 07-R1D2-3290 AND 3291
4. ANGELICA TEXTILE SERVICES INC., 06-R3D3-748 THROUGH 750
5. BMH GENERAL CONTRACTOR, 07-R4D2-1203
6. BARRETT BUSINESS STAFFING, 06-R4D2-167
7. BIG VALLEY DIVERS, INC., 07-R2D3-0490
8. BISHAMON INDUSTRIES CORP., 07-R3D3-2423
9. PAUL A. BROMBAL COINS & JEWELRY, 06-R4D3-4981 AND 4982
10. CONTINENTAL BUILDERS, 07-R2D2-1613
11. DYNAMIC ROOFING COMPANY INC., 07-R2D1-3936
12. ESSELTE CORP., 06-R3D1-5068
13. GUY EVANS INC. – INDIO, 07-R3D3-3058
14. FADAL MACHINING CENTERS, 06-R4D3-4834 AND 4835
15. GAYLE MANUFACTURING, INC., 06-R2D1-4512 THROUGH 4517
16. GOLDEN STATE BORING & PIPE JACKING, INC., 07-R5D2-2259
17. HATHAWAY DINWIDDIE, 06-R1D3-1503
18. JOSEPH HOLT PLASTERING INC., 07-R3D3-1706 THROUGH 1708
19. IFCO SYSTEMS NORTH AMERICA, INIC., 07-R6D1-3160 THROUGH 3167

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20. INLAND TECHNOLOGIES INC., 07-R3D3-2526
21. INTERNATIONAL PAINT, LLC, 07-R6D2-3186
22. KERN RIDGE GROWERS, LLC, 06-R4D3-5200 THROUGH 5202
23. KEY CONTAINER COMPANY, 06-R4D2-597
24. KRAFT FOODS, 07-R6D3-4109
25. LA ENVELOPE, INC., 07-R6D2-2983 THROUGH 2990
26. LAUSD, J.B. MONLUX ELEMENTARY SCHOOL, 06-R4D3-4836
27. MCM CONSTRUCTION, INC., 06-R2D3-459 THROUGH 461
28. MCP INDUSTRIES – MISSION RUBBER CO, 07-R3D3-1039
29. MADERA FRAMING, INC., 06-R2DE-3088 AND 3089
30. MARINE GROUP LLC, 07-R6D2-1220 AND 1221
31. MERICAL, INC., 07-R3D1-3793 AND 3794
32. MERLOS PRE-CAST PRODUCTS, 06-R4D1-5306 THROUGH 5308
33. MERVYN'S, 07-R3D5-1301
34. MINSON CORPORATION, 07-R4D4-1661
35. MISSION LINEN SUPPLY, 06-R1D1-4456 AND 4457
36. OLDCASTLE APG WEST, INC., 03-R3D3-1676 AND 1677
37. PACTIV CORP, 07-R6D2-2978 THROUGH 2982
38. PACIFIC CRANE MAINTENANCE CO., INC., 07-R1D4-1670
39. SEE'S CANDIES INC., 05-R6D1-4628 THROUGH 4635
40. SEE'S CANDIES INC., 05-R6D1-4636
41. SUNDANCE ART CORPORATION, 07-R3D2-1694
42. UNITED UNIFORM MANUFACTURER, INC., 07-R3D3-3050 THROUGH 3053

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43. VIE DE FRANCE YAMAZAKI, INC., 07-R6D2-3172 THROUGH 3179
44. VINTAGE PLASTERING, INC., 07-R4D3-4986 AND 4987
45. WAREHOUSE SERVICES INC., 07-R3D3-4254
46. PAUL KEON YOON DBA: CINEMA CAFÉ, 06-R4D3-3938
47. YOUNG ELECTRIC SIGN COMPANY, 07-R2D1-1675, 07-R2D1-1675

ORDERS DISMISSING APPEALS:

1. JAMES FOWLER COMPANY, 05-R5D2-3384 AND 3385
2. PACIFIC RETAIL GROUP, 05-R3D2-0718 AND 0719

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. NONE

ORDERS GRANTING APPEALS:

1. BRENDAN MCKENNY DBA MCKENNY & SONS, INC., 07-R2D3-5260
2. SERVICE SCAFFOLD CO., INC. 07-R1D1-5256 THROUGH 5295
3. TINCO SHEET METAL CONTRACTORS, 07-R3D1-5261

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. GAUTHIER CONSTRUCTION, 06-R3D2-3564 THROUGH 3566
2. PLASTIC INDUSTRIES, INC., 07-R2D5-9439
3. RODIN & CO., INC., 05-R4D3-1198 AND 1199

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

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4. BBC TRAVEL, 07-R3D2-9325
5. DANNY CAMPOS, 07-R3D6-9384

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. ASC PROFILES, INC., 06-R2D1-1181
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. 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

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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. DAVIS ROOFING, INC., 05-R3D3-4127
22. DYNALECTRIC, 03-R1D1-4101
23. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
24. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
25. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
26. GLASS PAK, 03-R2D2-0750 AND 0751
27. GRAND BUILDERS, 07-R4D3-9344
28. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
29. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
30. HELPMATES STAFFING SERVICES, 05-R3D3-2239
31. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
32. HUSSMAN CORPORATION, 03-R3D1-2939
33. ILH CONSTRUCTION, 02-R1D1-4172
34. JOHN LAING HOMES, 04-R3D1-194 AND-195
35. JOHNNY'S AUTOMOTIVE REPAIR, 05-R2D1-4076
36. KELLY SERVICES, INC., 06-R1D2-1024
37. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
38. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
39. LONG BEACH CITY COLLEGE, 03-R3D5-2747
40. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960

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41. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
42. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
43. O& M INDUSTRIES, 04-R1D5-1597
44. PMR RACE CARS, 03-R3D3-1825
45. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
46. RII PLASTERING INC., 02-R3D1-2679
47. R & L BROSAMER, INC., 03-R1D5-4832
48. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH
1656
49. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
50. STACY & WITBECK INC., 05-R1D1-1142
51. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
52. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
53. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
54. TEICHERT AGGREGATES, 04-R5D1-2982
55. TRIO METAL, 03-R4D4-0317
56. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
57. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
58. WESTERN DOOR, 01-R3D1-2827
59. 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

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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. 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)
7. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344-4345)
8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH v. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD (J.F. SHEA CONSTRUCTION, INC) 34-2007-00882187-CU-WM-GDS, (01-801)
9. 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.

PERSONNEL *(Issues regarding staff.)*

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