

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, February 17, 2010
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 4, 2010

RE: Closed Session of the Board to be held on February 17, 2010

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. COMMERCIAL METAL FORMING, 09-R3D1-1592

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. AIRGAS SPECIALTY PRODUCTS, 09-R6D4-3074
2. ALL PRO FIRE PROTECTION, INC., 09-R3D5-3730
3. BEVERSON CONSTRUCTION & MASONRY, INC., 09-R3D6-2848

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4. BLUE STAR METAL, 09-R3D3-0196 THROUGH 0199
5. BRAGG SERVICE COMPANIES, 09-R4D1-1704
6. BRET HARTE UNION HIGH SCHOOL DISTRICT – BRET HARTE UNION HIGH SCHOOL, 09-R2D4-1866
7. GARY BURTON DBA GARY BURTON, 08-R2D3-4004 THROUGH 4006
8. CAMPBELL SOUP SUPPLY CO., LLC, 08-R6D3-3609
9. COMPTON AG SERVICES, 09-R6D4-3093
10. DRILL TECH DRILLING AND SHORING, INC., 09-R5D1-0223
11. GREGORY HARRIS DBA COAST BUILDING MAINTENANCE, 09-R4D1-1705 THROUGH 1709
12. HARRY L. MURPHY, INC., 06-R1D2-0218 AND 0219
13. HARTE-HANKS, INC., 09-R3D3-0143 AND 0144
14. HEALDSBURG HIGH SCHOOL, 09-R1D5-3399
15. HMS, 09-R2D5-0336
16. JEFF EATON GENERAL CONTRACTOR, 09-R2D5-0531 THROUGH 0533
17. KNIGHT'S ELECTRIC, 08-R1D5-2975 AND 2976
18. LANCE REEVES FARMS, 09-R6D2-3339
19. LENNEN CONSTRUCTION, 08-R6D5-3641 AND 3642
20. LISI AEORSPACE HISHEAR, 09-R3D5-3938
21. MARIETTA CORP. DBA PACKAGING ADVANTAGE CORP., 09-R4D2-1532 THROUGH 1534
22. MARY ANN'S BAKING CO., INC., 08-R2D1-3977
23. McCONNELL CABINETS, INC., 09-R6D2-1575 THROUGH 1578
24. MICHAELE MONICA GRANT, LARGO CONSTRUCTION CO. EAST BAY, 08-R1D4-4939 AND 4940
25. MIKE ROVNER CONSTRUCTION, INC., 09-R4D1-2300 THROUGH 2301

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26. MULLER FARMING, INC., 09-R2D5-0480 AND 0481
27. OUSD DBA WESTLAKE MIDDLE SCHOOL, 08-R1D4-3924
28. PARKER HOUSE MANUFACTURING CO., INC., 09-R3D3-2844 THROUGH 2847
29. PICO METAL PRODUCTS, INC., 09-R6D2-1828 THROUGH 1830
30. PLEASANT PAPER RECYCLING, INC., 08-R2D2-3420 THROUGH 3422
31. PRICKETT DISTRIBUTING, INC., 09-R2D5-0407 THROUGH 0410
32. PRIDE OF WEST COOL, 08-R1D2-4570 AND 4571
33. PROAM ENTERPRISES, INC. DBA CLOVER ELECTONICS USA, 09-R3D5-3940
34. QUALITY MECHANICAL AND DESIGN, INC., 08-R2D3-4285 AND 4286
35. REDDING FIRE DEPT., 08-R2D3-4672
36. ROBERTSVILLE – CLASSIC CAR WASH, 09-R1D2-2763 AND 2764
37. SAPUTO CHEESE USA, INC., 08-R2D5-3134
38. SIERRA PACIFIC INDUSTRIES, 09-R2D1-2346 AND 2347
39. SONORA PACKING COMPANY, INC., 08-R1D5-4539
40. SRUQ SPECTRUM, INC., 08-R2D4-0292 AND 0293
41. STANDARD LIME, 09-R3D3-0106 AND 0107
42. TERRA UNIVERSAL, INC., 08-R3D1-4767
43. TULARE BEAUTY COLLEGE, 09-R2D5-0287
44. US AIRWAYS, 08-R1D3-4246 THROUGH 4249
45. VERIZON, 08-R1D2-3122

ORDER DISMISSING APPEAL:

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1. SALVADOR V. CORONA DBA CORONA PALLET SERVICE, 09-R6D5-1264

ORDERS DENYING-DISMISSING LATE APPEALS:

1. ROMAK IRON WORKS, INC. DBA ROMAK IRON WORKS, 10-R6D7-9004
2. SECURITAS SECURITY SERVICES, INC., 10-R2D5-9002

ORDER OF REMAND:

1. BUTTON & TURKOVICH, 09-R2D1-9277

STIPULATIONS:

1. ANC ROOFING, INC., 06-R1D5-3058
2. CA CORRECTIONS & REHABILITATION CA INST. FOR WOMEN, 08-R3D3-4694 THROUGH 4698
3. CA CORRECTIONS & REHABILITATION – CA REHAB CENTER, 09-R3D3-0170 THROUGH 0172
4. C G ROXANE, INC., 08-R2D3-1205 AND 1206
5. CINTAS CORPORATION, 08-R1D2-2599 AND 2600
6. DHV INDUSTRIES, 07-R2D5-4859 AND 4860
7. GOLDEN STATE REEL & CRATE, INC., 08-R2D5-1048 THROUGH 1051
8. HERSHEY CHOCOLATE & CONFECTIONARY CORP., 07-R2D4-3243 AND 3244
9. KIEWIT PACIFIC COMPANY, 09-R5D1-1761 AND 1762

PETITIONS FOR RECONSIDERATION:

1. JYG CONCRETE CONSTRUCTION, INC., 07-R4D4-3720 THROUGH 3722
2. NAWABI'S TIRE & AUTO CENTER #2, 07-R2D3-3767 AND 3768

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS)

1. COUNTY OF NEVADA, 09-R2D1-2287
2. INGLEWOOD PARKS & RECREATION, 08-R4D1-4182 AND 4183

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3. RH TECH & CONSTRUCTION, INC., 09-R3D6-9326
4. SAN MATEO UNIFIED SCHOOL DISTRICT – CAPUCHINO HIGH SCHOOL,
09-R1D3-9342

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. AC FRAMERS INC., 03-R2D3-3475
4. AC TRANSIT, 08-R1D4-0135
5. ADVANCE DISPOSAL CO. & RECYCLING CENTER DBA BESTWAY
DISPOSAL, 09-R3D3-9212
6. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
7. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
10. BART, 03-R1D1-5170
11. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
12. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
13. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
14. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
15. BURTON L. SILVA FARMS, 09-R1D2-1498
16. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
17. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
18. CA RASMUSSEN, INC., 08-R4D5-219 AND 220

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19. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
20. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
21. PEN CHANG, 08-R2D4-3102
22. CLINE CELLARS, INC., 08-R1D5-2946
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
25. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
26. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
27. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
28. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
29. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
30. DESIGN BUILDERS, INC., 08-R4D4-1901
31. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
32. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
33. DUKE PACIFIC, INC., 08-R3D3-574
34. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
35. DUININCK BROS., INC., 06-R4D3-2871
36. DYNALECTRIC, 03-R1D1-4101
37. E. C. U., INC., 09-R3D5-1094 AND 1095
38. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
39. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
40. EZ MIX, INC., 08-R4D3-1898
41. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477

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42. FORTUNA IRON WORKS 06-R2D3-4222
43. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
44. G.T. ALDERMAN, INC., 05-R4D3-3513
45. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
46. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
47. GLASS PAK, 03-R2D2-750 AND 751
48. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
49. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
50. HAMMOND POWER SOLUTIONS, INC., 09-R4D2-1124 AND 1125
51. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
52. HB PARKCO, 07-R4D2-1730 AND 1731
53. HELPMATES STAFFING SERVICES, 05-R3D3-2239
54. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
55. THE HERRICK CORP., 07-R3D1-495
56. HUSSMAN CORPORATION, 03-R3D1-2939
57. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
58. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
59. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
60. JENSEN PRECAST, 05-R2D1-2377
61. JOHN LAING HOMES, 04-R3D1-194 AND 195
62. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
63. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
64. KELLY SERVICES, INC., 06-R1D2-1024
65. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323

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66. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
67. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
68. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
69. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
70. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
71. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
72. MARINE TERMINALS, 08-08-R6D2-1920
73. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
74. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
75. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
76. O & M INDUSTRIES, 04-R1D5-1597
77. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
78. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
79. POWER FREIGHT SYSTEMS, 06-R1D4-3347
80. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
81. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
82. R & L BROSAMER, INC., 03-R1D5-4832
83. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
84. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
85. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
86. STACY & WITBECK, INC., 05-R1D1-1142
87. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
88. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986

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89. SUNOPTA FRUIT GROUP, 09-R3D1-9245
90. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
91. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
92. TEICHERT AGGREGATES, 04-R5D1-2982
93. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
94. UNITED PARCEL SERVICE, 07-R3D3-3322
95. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
96. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
97. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710
98. WINDMILL PROPANE, 08-R2D5-1217 AND 1218

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-
00056381-CU-WM-NC (01-4344/4345)
3. JERLANE V DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, 37-2009-
00059323-CU-WM-NC (08-1733)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-
00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-
9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)

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7. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
8. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
9. UNITED AIRLINES (SFO), 34-2009-80000256
10. XL CONSTRUCTION, SUPERIOR COURT (34-2009-80000300), 08-R1D2-1191 THROUGH 1193
11. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
12. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499 AND 2500)
13. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09-R1D3-9280 AND 9281)

PERSONNEL:

(Issues regarding staff.)

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