

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, November 3, 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: October 21, 2010

RE: Closed Session of the Board to be held on November 3, 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.

DECISION OF ADMINISTRATIVE LAW JUDGE:

(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. DREYERS GRAND ICE CREAM DIVISION OF NESTLE USA, 10-R4D3-0110 AND 0111
2. FLEMING METAL FABRICATION, 09-R6D2-4309 THROUGH 4311
3. KING WIRE PARTITIONS, INC., 10-R6D2-0982 THROUGH 0989
4. PACIFIC WESTLINE, INC., 10-R3D1-0278
5. DAVID STOUPAKIS DBA DEVORE TRUCK & AUTO WRECKING, 07-R3D3-5185 AND 5186
6. THE BUMPER BOYS, 10-R4D2-0754

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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. A & C PALLETS, 10-R6D5-1687 AND 1688
2. A TROPICAL GARDEN TRAILER PARK, 10-R4D3-1778 AND 1779
3. A.L. GILBERT COMPANY DBA BERRY SEED & FEED COMPANY, 09-R2D4-0351 AND 0352
4. ADVANCED THERMALFORMING ENTERPRISES, INC., 10-R3D2-1251 AND 1252
5. AEROTEK, 10-R3D2-1823
6. ALLIED INDUSTRIAL SYSTEMS, INC., 10-R3D1-1509
7. APPLIED COATINGS & LININGS, INC., 10-R6D2-0250 THROUGH 0252
8. ASPLUNDH CONSTRUCTION CORP., 10-R4D1-0017 THROUGH 0019
9. ASR CONSTRUCTORS, INC., 10-R3D3-2871
10. AVALON LABORATORIES LLC, 10-R4D2-2535 AND 2536
11. SEVERIANO AYALA DBA MIKE'S FLOWERS, 10-R6D5-2769
12. BLM TRANSPORTATION, 10-R6D4-1587
13. BOWLIN CONSTRUCTION, 10-R4D1-1776 AND 1777
14. C & C DRYWALL, INC., 10-R6D7-2023
15. CAR SOUND EXHAUST SYSTEM, 10-R3D1-1425
16. CLP RESOURCES, 09-R3D2-4121 AND 4122
17. CONSOLIDATED DISPOSAL SERVICE, 10-R4D2-2004
18. CONTAIN-A WAY, 09-R2D2-4150
19. DINYARI, INC., 09-R2D5-4115

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20. DR. PEPPER/SEVEN UP, INC., 09-R2D5-1381
21. FRESNO UNIFIED SCHOOL DISTRICT, 08-R2D5-3952 AND 3953
22. GARVEY SCHOOL DISTRICT – ELDRIDGE RICE SCHOOL, 10-R4D2-1439
AND 1440
23. GOLDEN STATE FOODS, 10-R3D6-1464 AND 1465
24. GRAPHIC PACKAGING INTERNATIONAL, 09-R1D2-2079
25. HIGNELL, INC., 09-R2D1-0001 THROUGH 0004
26. HOWARD’S SIGN SERVICES, 10-R3D2-1243
27. IMPERIAL IRRIGATION DISTRICT, 10-R3D2-1574 AND 1575
28. IRVINE COMPANY, 10-R3D1-1992 AND 1993
29. KEITH ROOFING COMPANY, 09-R1D2-0473
30. ARLAN & RON KOEHN DBA KOEHN VALLEY FARMS, 09-R2D4-4200 AND
4201
31. HANORA LAM DBA NAKED FISH, 10-R6D7-1472
32. CARLA WAY KUEN LEE DBA L & L MANUFACTURER, 10-R6D7-0761
33. L.A. CITY GENERAL SERVICES, 10-R4D1-0444
34. LEGGETT & PLATT INCORPORATED, 10-R2D4-1163
35. MAGDALENA PACHECO FLC, 10-R2D4-0902
36. MAYA STEEL FABRICATIONS, INC., 09-R6D2-3735 THROUGH 3740
37. MDS ENGINEERING & CONST., INC., 10-R2D3-2743
38. MILLENIUM PRODUCTS, INC., 08-R4D2-4631 THROUGH 4633
39. MONARCH ALUMINUM CASTING CO., INC., 09-R6D2-4071 THROUGH 4075
40. NORCAL RENTAL GROUP LLC DBA CRESCO XPRESS, 09-R2D2-0316
41. PACIFIC BOAT TRAILERS, 09-R3D3-2084 AND 2085

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42. PACIFIC COAST PRODUCERS, INC., 09-R2D3-3611
43. PACIFIC INDUSTRIAL SYSTEMS TECHNOLOGIES, INC., 10-R4D3-1302
44. PACKAGING SPECIALIST, INC., 10-R2D3-0126 AND 0127
45. PERFORMANCE CONTRACTING, INC., 09-R4D1-4127
46. PROFESSIONAL COMMUNITY MANAGEMENT, INC., 10-R3D1-1394
47. RALPH'S GROCERY COMPANY, 10-R4D1-0883
48. RGGD DBA CRYSTAL ART GALLERY, 09-R4D2-4129 THROUGH 4132
49. ROBIN HILTON PROFESSIONAL LAND & TREE MAINTENANCE, 09-R3D2-4117 THROUGH 4119
50. S.F. FIRE DEPARTMENT – STATION 1, 09-R1D1-2078
51. SAN CLEMENTE CITY UTILITIES DIVISION, 10-R6D4-1938 AND 1939
52. SANTA FE IMPORTERS, INC. DBA MARISA FOODS, 10-R6D2-0053 THROUGH 0057
53. SENSIENT DEHYDRATED FLAVORS LLC, 10-R2D4-0036
54. SOUTHERN CALIFORNIA EDISON, 10-R4D3-1150
55. SOUTHERN MONTEREY COUNTY LABOR, 10-R6D7-1531
56. STAFFMARK INVESTMENT LLC, 10-R3D3-1998
57. STAR LANDSCAPE & MAINTENANCE, 10-R6D5-1721 THROUGH 1723
58. THAI ORCHID RESTAURANT, 10-R6D5-1409
59. TMG TRANSPORTATION, INC., 10-R3D6-2046
60. TOP LINE CONSTRUCTION ENT., INC., 09-R2D4-0165 THROUGH 0168
61. TRULY MADLY SWEETLY, 10-R6D5-1526
62. TWR ENTERPRISES, INC., 09-R3D2-4120
63. UNITED PLUMBING, INC., 10-R3D1-2626 AND 2627

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64. UNIX ENGINEERING, INC., 10-R3D1-0645 AND 0646
65. VALLEY AG, INCORP., 08-R2D5-5009
66. VALLEY BINDERY, 10-R4D3-1366 AND 1367
67. WALKER SPRING & STAMPING CORPORATION, 10-R3D3-2169 THROUGH 2171
68. WALLACE BARTHULI FARMS, 09-R2D5-4009 AND 4010
69. WATSON ROOFING, INC., 08-R2D4-5004
70. WESTSIDE BUILDING MATERIAL CORP., 09-R4D1-2698
71. YUBA COUNTY, 10-R2D1-2673

ORDER DISMISSING APPEAL:

1. GONZO CONSTRUCTION, 09-R3D1-4279

ORDER AFTER REMAND:

1. NORTH COUNTY COMMUNITY SERVICES, 09-R3D2-3771 AND 3772

STIPULATIONS:

1. J. C. METAL SPECIALIST, INC., 08-R1D3-2435 THROUGH 2438
2. UNION PACIFIC RAILROAD COMPANY, 08-R5D1-4599 THROUGH 4568
3. UNITED PARCEL SERVICE DBA UPS, 08-R2D4-3760 THROUGH 3765

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. CAL ENERGY OPERATING CORPORATION, 09-R3D2-3675 AND 3676
2. SMUD, 08-R2D1-4887 THROUGH 4889 (filed by ER)
3. STEVE ZAPPETINI & SON, INC., 09-R1D5-1365 & 1366

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. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138

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2. AC TRANSIT, 08-R1D4-0135
3. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
4. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
7. BART, 03-R1D1-5170
8. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
9. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
11. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
13. BURTON L. SILVA FARMS, 09-R1D2-1498
14. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
15. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
16. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
17. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
18. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
19. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
20. CLINE CELLARS, INC., 08-R1D5-2946
21. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
22. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
23. COMMERCIAL METAL FORMING, 09-R3D1-1592

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24. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
25. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
26. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
27. DESIGN BUILDERS, INC., 08-R4D4-1901
28. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
29. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
30. DUKE PACIFIC, INC., 08-R3D3-574
31. DUININCK BROS., INC., 06-R4D3-2871
32. DYNALECTRIC, 03-R1D1-4101
33. E. C. U., INC., 09-R3D5-1094 AND 1095
34. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
35. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
36. EZ MIX, INC., 08-R4D3-1898
37. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
38. FORTUNA IRON WORKS 06-R2D3-4222
39. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
40. G.T. ALDERMAN, INC., 05-R4D3-3513
41. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
42. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
43. GLASS PAK, 03-R2D2-750 AND 751
44. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
45. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
46. HARBOR ORNAMENTAL, INC., 09-R3D5-2086

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47. HB PARKCO, 07-R4D2-1730 AND 1731
48. HELPMATES STAFFING SERVICES, 05-R3D3-2239
49. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
50. THE HERRICK CORP., 07-R3D1-495
51. HUSSMAN CORPORATION, 03-R3D1-2939
52. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
53. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
54. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
55. JENSEN PRECAST, 05-R2D1-2377
56. JOHN LAING HOMES, 04-R3D1-194 AND 195
57. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
58. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
59. KELLY SERVICES, INC., 06-R1D2-1024
60. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
61. LA MINA CANTINA, 09-R2D5-0039
62. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
63. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
64. LION RAISINS, INC., 08-R2D5-2253 AND 2254
65. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
66. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
67. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
68. MARINE TERMINALS, 08-08-R6D2-1920
69. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415

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70. MELMARC PRODUCTS, INC., 09-R3D1-2878
71. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
72. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
73. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
74. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
75. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
76. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
77. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
78. POUK & STEINLE, INC., 09-R3D3-0491
79. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
80. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
81. R & L BROSAMER, INC., 03-R1D5-4832
82. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
83. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
84. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
85. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
86. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
87. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
88. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
89. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
90. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
91. SMUD, 08-R2D1-4887 THROUGH 4889 (filed by DOSH)
92. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414

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- THROUGH 3418 (Both DOSH & ER filed a Petit for Recon that was granted)
93. STACY & WITBECK, INC., 05-R1D1-1142
 94. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
 95. SUNOPTA FRUIT GROUP, 09-R3D1-9245
 96. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
 97. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
 98. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
 99. TEICHERT AGGREGATES, 04-R5D1-2982
 100. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
 101. UNITED PARCEL SERVICE, 07-R3D3-3322
 102. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
 103. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
 104. 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. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
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)

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5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
8. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
9. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499/2500)
10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09- 9280/9281)
12. JC CONSTRUCTION, BS124990 (09-9265)
13. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
14. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-1139)
15. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-R5D1-3611)
16. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
17. BAY AREA RAPID TRANSIT DISTRICT, 34-2010-80000683 (09-R2D2-1218 THROUGH 1221)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, B223828 (BS 119297) (08-9062)
2. HARRIS CONSTRUCTION COMPANY, INC., C060578 (07-CS00518) (05-3914)
OSHAB appealed Court's judgment vacating the DAR.
3. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
WORKSAFE, INC. appealed Court's judgment denying its motion for attorney fees.