

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, December 2, 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: November 19, 2009

RE: Closed Session of the Board to be held on December 2, 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. KINGSOLVER, INC. DBA SUPREME ENTERPRISE, 09-R6D2-0786 THROUGH 0792
2. MASTERS IN METAL, 09-R6D2-1537 THROUGH 1542

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. 3V FASTENERS COMPANY, INC., 09-R3D3-2505 AND 2506
2. ALCO SERVICES, INC., 09-R6D5-1128

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For December 2, 2009

Page 2

3. ALL-STATE HARVESTING, INC., 09-R3D3-3018
4. ALL-STATE HARVESTING, INC., 09-R3D3-3019
5. ALTA DENA CERTIFIED DAIRY DBA ALTA DENA DAIRY, 09-R6D4-2258 THROUGH 2261
6. AMERICAN CABLE SERVICE LLC, 09-R4D2-2139 THROUGH 2141
7. AMPERSAND CHOWCHILLA BIOMASS LLC, 08-R6D3-4922 THROUGH 4929
8. BEYOND JUICE OF VALLEY SPRINGS, INC., 09-R6D7-2866
9. BILCAN, INC. DBA EL CAMINO RENTAL, INC., 09-R3D2-2765 THROUGH 2767
10. BWM, INC. DBA BARRY'S WINDOW MAINTENANCE, INC., 09-R3D2-0757
11. C & G FARMS, 09-R3D2-1403
12. CAL STATE NORTHRIDGE, 09-R4D3-2974
13. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, 09-R4D2-1700
14. CAMP CEDAR GLEN, 09-R3D2-2879
15. CITY CONSTRUCTORS, INC., 09-R4D1-2095 AND 2096
16. COCA COLA BOTTLING OF SOUTHERN CALIFORNIA, 09-R6D2-3087
17. COMMUNITY MARKETS DBA EASY'S GENERAL STORE, 09-R3D3-2348
18. D.A. WILLIAMS CONSTRUCTION, INC., 09-R6D5-2263
19. EL DON FARM LABOR CONTRACTING, INC., 09-R3D2-2407
20. EUREST SERVICES, INC., 09-R3D5-2718 THROUGH 2720
21. INTERNATIONAL WINDOW CORP., 09-R6D2-2783 THROUGH 2786
22. J & B NOBLE ENTERPRISES, 09-R4D1-2208
23. J & R FARM LABOR, INC., 08-R6D1-3967
24. KERN RIDGE GROWERS LLC, 09-R4D3-0685 THROUGH 0687

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 3

25. KJ WOODS CONSTRUCTION, INC., 08-R1D3-0670 THROUGH 0673
26. KUHN HAY, 09-R3D2-0607 AND 0608
27. LA COUNTY CHILD SUPPORT SERVICES, 09-R4D1-2185
28. LA COUNTY CHILDREN AND FAMILY SERVICES, 09-R4D1-2191
29. LA COUNTY DEPARTMENT OF MENTAL HEALTH, 09-R4D1-2196
30. LA COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES, 09-R4D1-2205
31. LANDMARK GRADING & PAVING, INC. DBA QUALITY PAVING, 09-R4D3-1827
32. LAUSD-BELVEDERE MIDDLE SCHOOL, 09-R4D2-1872
33. LISI AEROSPACE HI SHEAR, 09-R3D5-2998
34. LWC SERVICES DBA LILY'S WINDOW CLEANING, 09-R3D2-1607 AND 1608
35. M.C.M. CONSTRUCTION, INC., 08-R1D4-0130 THROUGH 0132
36. MI PUEBLITO MEXICAN RESTAURANT, 09-R6D5-2313
37. MLB SERVICES, 09-R6D5-1649
38. ORTEGA HAND WASH, 09-R3D1-2582
39. PIERRE CONSTRUCTION, 09-R4D1-2097
40. POLYTECHNIC FLOOR, 09-R6D5-1651
41. PREMIUM PACKING, INC., 09-R6D5-0342
42. PREMIUM PACKING, INC., 09-R6D5-0343
43. PREMIUM PACKING, INC., 09-R6D5-1495
44. PROFFER CONSTRUCTION, 09-R4D3-1406
45. RADFORD ALEXANDER CORP. DBA AVALON PREMIUM, 09-R4D1-2999
46. READY PAC FOODS, INC., 08-R6D4-4269 THROUGH 4271
47. SANTA CLARA COUNTY SUPERIOR COURT, 09-R1D2-1000

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For December 2, 2009

Page 4

48. SECURITAS SECURITY SERVICES, USA, INC., 09-R4D3-1791
49. SOUTHEAST ROP, 08-R4D4-4051
50. SUNWEST ELECTRIC, INC., 08-R4D4-4375
51. THE GROWERS CO., 09-R6D5-1184
52. THE INDUSTRIAL COMPANY, 09-R6D4-2073
53. THYSSENKRUPP-SAFEWAY, INC., 08-R1D2-2301 THROUGH 2303
54. TUNSTILL PLASTERING, INC., 09-R3D3-0563
55. U.S. AUTO BODY, INC., 08-R6D5-5074 THROUGH 5077
56. UNIVERSAL ALLOY CORP., 09-R3D1-2841
57. VENTURA FOODS LLC, 09-R3D3-2541 THROUGH 2543

ORDER DISMISSING APPEAL:

1. WATSON ROOFING, INC., 08-R2D4-3499

STIPULATION:

1. CA DEPARTMENT OF WATER RESOURCES, 07-R2D4-3566 AND 3567

ORDER DENYING LATE APPEAL:

1. TVD, INC., 09-R6D5-9296

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. GORMAN ROOFING, 09-R2D1-9278
2. GUSD-GRIDLEY HIGH SCHOOL, 09-R2D1-9306
3. REBAR ENGINEERING, INC., 09-R4D3-9294

ORDERS DENYING CONSENT TO FILE LATE APPEALS:

1. DELIVEREX ACQUISITION CORP. DBA SOURCECORP, 09-R2D1-9297
2. FRESH POINT HARVESTING, INC., 09-R6D7-9307

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 5

ORDER DENYING LEAVE TO PROCESS APPEALS AS TIMELY:

1. RON MILINICH DBA MILINICH BODY WORKS, 09-R6D5-9279

PETITIONS FOR RECONSIDERATION:

1. SYED A. HUSSAIN, INDIVIDUALLY DBA ALAZHAR MARKET, 09-R3D2-2153 THROUGH 2155
2. SUPERB AUTO REPAIR & TIRE CENTER, 09-R2D1-9263
3. WEBCOR BUILDERS, INC., 06-R1D1-3030 THROUGH 3032
4. WPCS INTERNATIONAL SUISUN CITY, INC., 09-R1D3-9280
5. WCPS INTERNATIONAL SUISUN CITY, INC., 09-R1D3-9281

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. COLICH & SONS / J.R. PIPELINE J.V., 08-R5D2-5061
2. KANG'S PAINTING, 09-R3D2-2668 AND 2669
3. LOLOS FARM LABOR MANAGEMENT, 07-R2D4-2017 AND 2018
4. RANCHO SALINAS PACKING, INC., 09-R6D5-9231
5. RAY TONEY & ASSOCIATES, 09-R2D3-0746
6. SOAPY SUDS, INC., 09-R4D3-9224

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

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 6

6. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
7. AHERN RENTALS, INC., 08-R1D4-3031
8. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
9. ANNING-JOHNSON COMPANY, 06-R1D3-1976
10. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
11. BART, 03-R1D1-5170
12. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
13. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
14. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
15. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
16. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
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. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
22. CITY OF POWAY, DEPARTMENT OF PUBLIC WORKS, 09-R3D2-2165 AND
2166
23. CLINE CELLARS, INC., 08-R1D5-2946
24. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
25. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
26. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
27. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 7

28. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
29. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
30. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
31. DESIGN BUILDERS, INC., 08-R4D4-1901
32. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
33. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
34. DUKE PACIFIC, INC., 08-R3D3-574
35. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
36. DUININCK BROS., INC., 06-R4D3-2871
37. DYNALECTRIC, 03-R1D1-4101
38. E C U, INC., 09-R3D5-1094 AND 1095
39. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
40. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
41. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
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

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 8

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. HERITAGE OPERATING, LP DBA PRO-FLAME, 09-R3D3-1067
56. THE HERRICK CORP., 07-R3D1-495
57. HUSSMAN CORPORATION, 03-R3D1-2939
58. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
59. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
60. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
61. JENSEN PRECAST, 05-R2D1-2377
62. JOHN LAING HOMES, 04-R3D1-194 AND 195
63. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
64. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
65. KELLY SERVICES, INC., 06-R1D2-1024
66. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
67. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
68. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
69. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
70. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
71. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
72. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
73. MARINE TERMINALS, 08-08-R6D2-1920

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 9

74. CARLOS MEZA AND ELIZABETH MEZA DBA CARLOS ON THE RIDGE, 08-R2D3-0696
75. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
76. MILLENIUM GENERATION, INC., 08-R4D3-5047
77. MITCHELL ENVIRONMENTAL CONCRETE, 09-R4D5-0147
78. NEW CREATION BUILDERS, 09-R3D1-1460
79. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
80. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
81. O & M INDUSTRIES, 04-R1D5-1597
82. OFFICE DEPOT, INC., 09-R3D1-1718
83. OLSON AND CO. STEEL, 09-R1D4-0876
84. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
85. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
86. POWER FREIGHT SYSTEMS, 06-R1D4-3347
87. PRIME STEEL, INC., 09-R3D6-1523
88. PROAM ENTERPRISES, INC., 09-R3D5-2027
89. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
90. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
91. R & L BROSAMER, INC., 03-R1D5-4832
92. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
93. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
94. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
95. SOUTHWEST TRADERS, INC., 08-R2D4-0710 THROUGH 0712
96. STACY & WITBECK, INC., 05-R1D1-1142

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 10

97. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
98. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
99. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
100. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
101. TEICHERT AGGREGATES, 04-R5D1-2982
102. UGO, 09-R4D1-0819
103. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
104. UNITED PARCEL SERVICE, 07-R3D3-3322
105. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
106. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
107. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710
108. 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)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For December 2, 2009
Page 11

5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
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

APPELLATE COURT:

1. MURRAY COMPANY, BS112469

PERSONNEL:

(Issues regarding staff.)

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