

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c), (3), and (e)
for
Wednesday, August 15, 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 3, 2007

RE: Closed Session of the Board on August 15, 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. SAM ABUATIEH AND ED ABUTARBUSH dba STEREO 1, 04-R4D4-2441 AND 2442 (7/19/2007)
2. FRANKLIN REINFORCING STEEL CO., INC., 04-R4D2-3664 THROUGH 3666
3. HARBOR PIPE & STEEL, INC. dba JAMES METALS, 05-R3D3-2670 AND 2671 (7/18/2007)
4. IMPACT DEMO AND HAULING, INC., 06-R1D1-434 AND 435 (7/19/2007)
5. KELLY SERVICES, 06-R1D2-1024 (7/23/2007)
6. PORTER CONSTRUCTION, 05-R1D2-4051 (7/26/2007)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 15, 2007
Page 2

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. ADVANTAGE SERVICES GROUP, 06-R2D4-5268
2. ALBERTSON'S DISTRIBUTION CENTER, 05-R3D1-3429 AND 3430
3. ALTMAN SPECIALTY PLANTS, INC., 07-R1D2-2152
4. AMERICAN RENOLIT CORPORATION, LA, 07-R4D2-207 AND 208
5. ANGELICA TEXTILE SERVICES, 05-R4D2-3638
6. ASTRO SECURITY MONITORING, 06-R2D1-2699
7. ATLAS IRON & METAL WORKS, 04-R4D2-3963
8. AZTEC UNIFORM & TOWELS RENTAL, 04-R3D3-3518 AND 3519
9. BAESKENS CONSTRUCTION, INC., 06-R3D3-3908
10. BAKE HOUSE FOODS, 04-R6D2-3799
11. BARREL TEN QUARTER CIRCLE INC., 04-R1D5-4724 AND 4725
12. BARRON BOATS, INC. dba HALLETT BOATS, 07-R6D2-106 THROUGH 112
13. BARRON BOATS, INC. dba HALLETT BOATS, 07-R6D2-113 THROUGH 117
14. BON APPETIT MANAGEMENT COMPANY SITE #15789, 06-R3D3-3574
15. CKL CONSTRUCTION, INC., 05-R1D2-4053 AND 4054
16. C. C. MEYERS, INC., 04-R1D5-1935 AND 1936
17. BILL CALLAWAY dba PARADISE READY MIX, 05-R2D3-894 THROUGH 896
18. CASS CONSTRUCTION, INC., 06-R3D3-4141 AND 07-R3D3-464
19. CLIFFSTAR CORPORATION, 07-R3D3-2527
20. COAST SIGN, INC., 05-R3D1-4095 THROUGH 4098

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

For August 15, 2007

Page 3

21. CROSSWORLD CONSTRUCTION, INC., 04-R6D2-349 THROUGH 357
22. CRYSTALINER CORPORATION, 07-R6D2-239 THROUGH 246
23. DAYTON SUPERIOR CORP., 07-R6D2-544 THROUGH 547
24. DESIGN MASONRY/ROCKATECTURE, 04-R1D5-4360
25. DUCOMMUN TECHNOLOGIES, 05-R3D5-2978
26. EUROCRAFT ARCHITECTURAL METAL, INC., 06-R6D2-3008 THROUGH 3020
27. GALAXY DESSERTS INC. GALAXY DESSERTS, 04-R1D5-4481 THROUGH 4483
28. GARIBAY DRYWALL, 05-R4D3-4293
29. GREGOR BOAT COMPANY, 05-R2D5-1900 AND 1901
30. HY CONSTRUCTION, INC., 05-R1D1-2602
31. HY CONSTRUCTION, INC., 05-R1D1-2603 AND 2604
32. IMPERIAL CUSTOM CABINETS, INC., 06-R6D2-2930 THROUGH 2939
33. INLAND COLD STORAGE, 07-R3D3-505
34. INLAND COLD STORAGE, 07-R3D3-860
35. INLAND COLD STORAGE, 07-R3D3-1036
36. JACK NEAL AND SON INC., 04-R1D5-4726
37. JEFFERSON STATE FOREST PRODUCTS, INC., 06-R2D3-3512
38. J. GUADALUPE DIAZ FARM LABOR CONTRACTOR, 06-R2D4-3726
39. JOHN N. PETERSON INC., 06-R1D5-14
40. KD STEEL, 04-R1D2-4256 THROUGH 4258
41. KENYON PLASTERING, 06-R2D4-5266 AND 5267
42. LASCO BATHWARE, INC., 07-RD31-1921

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

For August 15, 2007

Page 4

43. LUCCA RAVIOLI COMPANY, INC., 05-R1D1-3884 THROUGH 3891
44. MCM CONSTRUCTION INC., 05-R1D5-1071
45. MAGNETIC ELECTRIC, INC., 05-R3D5-2119 THROUGH 2121
46. MAY 21, INC., 04-R4D1-2396 THROUGH 2398
47. MILLIGAN CONCRETE CONSTRUCTION CO., 07-R2D2-2573 AND 2574
48. NATURE'S BEST, 05-R3D1-2517
49. NORTH BAY CONSTRUCTION, 05-R1D5-1861 AND 1862
50. NUMMI, 04-R1D4-4013
51. NUMMI, 04-R1D4-4147
52. OUTBACK MATERIAL, 06-R2D5-5165 THROUGH 5167
53. ROBERT PARKS, 06-R2D4-5265
54. PENHALL COMPANY, 04-R2D1-2168
55. PEP BOYS, 07-R3D3-2840
56. PEPSI BOTTLING GROUP, 06-R2D5-3642
57. PERSALL MASONRY INC., 06-R3D3-4142
58. PIETRA SANTA VINEYARDS & WINERY, 04-R1D2-3817
59. PNEUMATIC TUBE PRODUCTS CO., 06-R1D4-4929
60. PRE-CAL INC. dba GINGER PRECAST DESIGNS, 05-R3D3-3555 AND 3556
61. R K ELECTRIC INC., 04-R1D2-4005 AND 4006
62. R.W. WOOD PRODUCTS, INC., 06-R6D2-679 AND 680
63. R.W. WOOD PRODUCTS, INC., 06-R6D2-2406 THROUGH 2419
64. GARY B. RADU dba GARY'S CERTIFIED WELDING, 07-R3D3-2941
THROUGH 2943

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 15, 2007
Page 5

65. RAOULS TEXTILES, INC., 06-R6D2-3480 THROUGH 3482
66. SMG MANAGEMENT, 06-R1D4-1388
67. CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT, 05-R3D2-1596 AND 1664
68. SANTA FE MOLD CO., 06-R4D4-2501 AND 2502
69. SCHARFF CONSTRUCTION, INC., 04-R4D1-2214 THROUGH 2216
70. SEA WORLD, 07-R3D2-1296
71. SETCO LLC, 07-R6D2-2063 THROUGH 2067
72. SEWING COLLECTION INC dba TOUR LOGISTICS, 07-R4D2-1447 AND 1448
73. SIERRA ALLOYS CO., INC., 04-R6D2-4717 THROUGH 4719
74. SIGNATURE FRUIT CO., 06-R2D4-403
75. SITEWORKS CONSTRUCTION, INC., 06-R1D4-2674
76. SOUTHWEST CONSTRUCTION, 06-R1D5-013
77. STATER BROS. #8, 07-R3D3-2525
78. SUKUT CONSTRUCTION, INC., 04-R3D3-3645 AND 3646
79. SUNDT CONSTRUCTION, INC., 06-R2D1-4745
80. SYAR INDUSTRIES INC., 05-R5D1-3827
81. TERRA INDUSTRIES INC., 04-R6D2-4311 AND 4312
82. TERRA INDUSTRIES, 04-R6D2-4463
83. TOWN & COUNTRY ROOFING dba T & C ROOFING, INC., 05-R1D4-2620 THROUGH 2623
84. TRAYLOR SHEA JOINT VENTURE, 07-R5D2-221
85. TULE RIVER RANCH, 04-R2D5-1113 AND 1114
86. US CONSTRUCTION, 05-R3D5-2416 AND 2417

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 15, 2007
Page 6

87. UNITED STEEL AND METALS, 04-R4D4-1678 THROUGH 1685
88. VAN GRONINGEN & SONS, INC., 06-R2D4-3292
89. WILDWOOD RETREAT, INC., 06-R1D5-231
90. WINDSOR STUCCO CO., 04-R1D5-1078 THROUGH 1081
91. WINDSOR STUCCO CO., 04-R1D5-4015 THROUGH 4018

ORDER DENYING LEAVE TO FILE LATE APPEAL:

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

NONE

ORDERS DISMISSING APPEALS:

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

1. DAVIS ROOFING, INC., 05-R3D3-4127

ORDERS GRANTING APPEALS:

(Written order by an Administrative Law Judge.)

1. LLANTERA TIRE CENTER, 05-R3D5-1464 THROUGH 1466
2. NASSCO [NATIONAL STEEL AND SHIPBUILDING COMPANY], 04-R6D2-3993
3. NASSCO [NATIONAL STEEL AND SHIPBUILDING COMPANY], 04-R6D2-3874 THROUGH 3876

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.)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 15, 2007
Page 7

1. ABM INDUSTRIES, INC., dba ABM JANITORIAL SERVICES, 07-R1D1-9135 THROUGH 9137
2. CHOOIJIAN BROTHERS PACKING CO., 05-R2D5-984
3. HARRINGTON TOOLS, INC., 06-R4D1-2824 THROUGH 2826
4. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. HARRINGTON TOOLS, INC., 06-R4D1-2824 THROUGH 2826
2. PACIFIC STONE DESIGN, INC., 04-R3D1-04-R3D1-4280

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. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
7. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
8. BLUE DIAMOND MATERIALS, 02-R5D2-1268
9. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
10. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
11. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
12. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 15, 2007
Page 8

13. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
14. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242
15. COX COMMUNICATIONS, 03-R3D2-1942
16. DADE BEHRING, 05-R2D1-2203
17. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
19. DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448
20. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
21. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
22. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
23. GLASS PAK, 03-R2D2-0750 AND 0751
24. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
25. HELPMATES STAFFING SERVICES, 05-R3D3-2239
26. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
27. HUSSMAN CORPORATION, 03-R3D1-2939
28. ILH CONSTRUCTION, 02-R1D1-4172
29. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
30. JOHN LAING HOMES, 04-R3D1-194 AND 195
31. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
32. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
33. LONG BEACH CITY COLLEGE, 03-R3D5-2747
34. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
35. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 15, 2007
Page 9

36. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
37. O& M INDUSTRIES, 04-R1D5-1597
38. PMR RACE CARS, 03-R3D3-1825
39. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
40. RII PLASTERING INC., 02-R3D1-2679
41. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
42. SPRAY BOOTH TECHNOLOGIES, 03-R3D3-4910
43. STACY & WITBECK INC., 05-R1D1-1142
44. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
45. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
46. TEICHERT AGGREGATES, 04-R5D1-2982
47. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-R3D3-2533 AND 2534
48. TRI-COUNTY, INC., 04-R1D5-3927
49. TRIO METAL, 03-R4D4-0317
50. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
51. WESTERN DOOR, 01-R3D1-2827
52. 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:

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 15, 2007
Page 10

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. BLF FRAMING, INC., 04CS01618 (02-1837/38)
3. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
4. 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)
5. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
6. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
7. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)

APPELLATE COURT:

1. NONE.

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

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