MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 2675 East Broadway Boulevard Tucson, Arizona 85716 Thursday, February 8, 2024 – 1:00 p.m.

Present: Dennis P. Kavanaugh Chairman

Joseph M. Hennelly, Jr. Vice Chair
D. Alan Everett Commissioner
Maria Cecilia Valdez Commissioner

Gaetano J. Testini Executive Deputy Director

Afshan Peimani Chief Legal Counsel Lisa Padgett Deputy Director

Charles Carpenter Legislative Affairs Chief/Public Information Officer (Telephonic)

Renee Pastor Self Insurance (Telephonic)

Bryce Rucker ADOSH Supervisor
Anna Maria Stonerock
Rebecca Stratton ADOSH Compliance

Kara Dimas Commission Secretary (Telephonic)

Yvonne Borunda Acting Commission Secretary

Chairman Kavanaugh convened the meeting at 1:07 p.m. In attendance, confirmed by roll call were Brian Clymer (Self); Rolande Baker (Self); Shad Eranbrack (Self); Robert C Valdez (Arizona Carpenters Local 1912); Steven Valencia and Sandy Ochoa (AZ JWJ); Tony Pineda, Taylor Leigh and Sarah Roberts (South Side Workers Center); Brad Voirin and Emanuel Valenzuela (289T SEIU); Dennis Meitner and Mekayle Coles (Franklin Foods); Ryan Kelly (AZ AFL-CIO); Anakarina Rodriguez (Care in Action); Angela Reyes (Ward 1); Emmanuel Alley and Russell Crossan (PSLF). Also in attendance on the telephone, confirmed by roll call were Sheri Harris and Mark Witthar (Don Sanderson Ford, Inc.); Stephanie Hefner (Snell and Wilmer); Samantha Wright, Tracey Wright and Christopher Brandon (Maricopa County).

Approval of Minutes of January 25, 2024 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the January 25, 2024 regular session meeting and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Requests for Renewal of Self-Insurance Authority.

- 1. Maricopa County
- b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.
 - 1. WN Plumbing LLC

Commissioner Valdez moved to approve the items on the Consent Agenda and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Don Sanderson Ford, Inc.

Fatality/Catastrophe

6400 N. 51st Ave.

Years in Business:

Empl. Covered by Inspection:

69 420

Glendale, AZ 85301
Site Location:

6400 N. 51st Ave.

Glendale, AZ 85301

Inspection No:

FC-2023-R0175-0042

Inspection Date:

August 21, 2023

SERIOUS – Citation 1 - Item 1a –

a) 6400 N. 51st Ave., Glendale AZ 85301: One employee operating a Segway, Nonebolt, KickScotter and was not required to wear a helmet or other protective head gear. A.R.S. 23-403.A

Div. Proposal - \$15,625.00

Formula Amt. - \$15,625.00

<u>SERIOUS</u> – Citation 1 - Item 1b –

a) 6400 N. 51st Ave., Glendale AZ 85301: One employee operating a Segway, Nonebolt, KickScotter, with a capability of speeds in excess of 18 mph and a hazard assessment had not been conducted to determine if personal protective equipment would be required. 29 CFR 1910.132(d)(1)

Div. Proposal - \$0.00

Formula Amt. - \$15,625.00

TOTAL PENALTY - \$15,625.00

TOTAL FORMULA AMT. - \$31,250.00

Mr. Rucker discussed ADOSH's inspection, summarized the citation and proposed penalties.

Commissioner Everett and Mr. Rucker discussed if the employee on the Segway was being used by employee to perform work duties.

Chairman Kavanaugh confirmed the amount of the penalty for \$15,625.00.

Chairman Kavanaugh checked if anyone would like to comment.

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Franklin Foods, Inc.

Complaint

1221 W Gila Bend Hwy

Years in Business:

Empl. Covered by Inspection:

10 50

Casa Grande, AZ 85193

1221 W Gila Bend Hwy

Casa Grande, AZ 85193

Inspection No:

Site Location:

CP-2023-T3633-0122

Inspection Date:

August 16, 2023

SERIOUS – Citation 1 - Item 1a –

a) Processing tanks: Employees who worked on top of tanks up to 12 feet above the floor changing or repairing piping were not protected by an adequate fall protection system.

b) Processing tanks: Employees who entered processing tanks for cleaning worked at heights up to 12 feet above the bottom of the tanks, and were not protected by an adequate fall protection system. 29 CFR 1910.28(b)(15)

Div. Proposal - \$8,930.00

Formula Amt. - \$8,930.00

<u>SERIOUS</u> – Citation 1 - Item 1b –

a) Processing tanks: Employees who worked on top of tanks up to 12 feet above the floor changing or repairing piping had not been trained concerning fall protection systems. 29 CFR 1910.30(a)(1)

Div. Proposal - \$0.00

Formula Amt. - \$8,930.00

SERIOUS – Citation 1 - Item 2 –

a) Processing tanks: Confined space procedures used by the employer specified an internal Confined Space Rescue Team (CSRT), and employees had not been trained in the rescue procedures and provided with the emergency equipment specified in the procedures including a winch. 29 CFR 1910.146(k)(2)(ii)

Div. Proposal - \$8,930.00

Formula Amt. - \$8,930.00

TOTAL PENALTY - \$17,860.00

TOTAL FORMULA AMT. - \$26,760.00

Mr. Rucker discussed ADOSH's inspection, summarized the citation and proposed penalty, and noted a correction to the years in business should be 10 years and not 1.

Commissioner Everett, Mr. Rucker, Commissioner Valdez and Chairman Kavanaugh discussed the penalty amount for Item 2 and the error in the calculations, the total penalty for Item 2 is \$8,930.00 for a total proposed penalty amount of \$17,860.00.

Chairman Kavanaugh noted he had a request to speak from Dennis Meitner with Franklin Foods.

Mr. Meitner, Franklin Food Plant Manager, thanked the Commission for inviting them to the meeting and stated they appreciate the feedback on the citation. Additionally, he stated the compliance officer was very helpful finding a few gaps in their safety program and the company has since made some procedural changes to address the gaps. He would like to share those changes in an informal level in the 15 days following the citation issuance.

Chairman Kavanaugh commented that he was sure they will have positive conversation with ADOSH staff about the changes that were made. He thanked them for coming to the meeting and taking corrective action in response to the inspection.

Mr. Meitner noted they take safety very serious and are pursuing a safety first policy in the plant.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Precision Marble, Inc.

Complaint

Wilkinson Dr & Crosswind Dr

Years in Business:

1

Prescott, AZ 86301

Empl. Covered by Inspection:

15

Site Location:

Wilkinson Dr & Crosswind Dr

Prescott, AZ 86301

Inspection No:

CP-2023-TN976-0003

Inspection Date:

August 18, 2023

SERIOUS – Citation 1 - Item 1a –

a) Finishing Room: Two employees were required to wear 3M Tightfitting Half-mask Respirators with Charcoal filters while working with 300-T-808W Gel Coating, while a respiratory program was not being implemented in the workplace. 29 CFR 1910.134(c)(1) Div. Proposal - \$4,018.00 Formula Amt. - \$4,018.00

SERIOUS – Citation 1 - Item 1b –

a) Finishing Room: Two employees were required to wear 3M Tightfitting Half-mask Respirators with Charcoal filters while working with 300-T-808W while not having received a medical evaluation. 29 CFR 1910.134(c)(1)(ii)

Div. Proposal - \$0.00

Formula Amt. - \$4,018.00

SERIOUS – Citation 1 - Item 1c –

a) Finishing Room: One employee was required to wear 3M Tightfitting Half-mask Respirators with Charcoal filters while working with 300-T-808W Gel Coating, while not having received fit testing. 29 CFR 1910.134(c)(1)(iii)

Div. Proposal - \$0.00

Formula Amt. - \$4,018.00

SERIOUS – Citation 1 - Item 2 –

a) Finishing Room: Two employees were required to wear 3M Tightfitting Half-mask Respirators with Charcoal filters while working with 300-T-808W Gel Coat, while not having received training. 29 CFR 1910.134(k)

Div. Proposal - \$4,018.00

Formula Amt. - \$4,018.00

SERIOUS – Citation 1 - Item 3 –

a) Precision Marble, Inc: Three employees are exposed to chemicals such as PMS-6952 Resin and 300- T- 800W Gel coat, without a written hazard communication program maintained at the workplace. 29 CFR 1910.1200(e)(1)

Div. Proposal - \$5,357.00

Formula Amt. - \$5,357.00

SERIOUS - Citation 1 - Item 4 -

a) Precision Marble, Inc: Three employees are exposed to chemicals such as PMS-6952 Resin and 300- T- 800W Gel coat, without being provided hazard communication training. 29 CFR 1910.1200(h)(1)

Div. Proposal - \$5,357.00

Formula Amt. - \$5,357.00

TOTAL PENALTY - \$18,750.00

TOTAL FORMULA AMT. - \$26,786.00

Mr. Rucker discussed ADOSH's inspection, summarized the citation and proposed penalties.

Chairman Kavanaugh checked if anyone would like to comment.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Borunda confirmed Commission meeting dates through March 2024.

Mr. Testini noted that he and Chairman Kavanaugh attended Safety Day at Cintas for their VPP recertification.

Public Comment.

Steven Valencia commented he has followed the work of the Industrial Commission for quite some time and the enforcement aspect. He was here because he has a fond appreciation for the work and life of Commissioner Valdez and was here with a lot of people from the labor movement and from the community and were here to support the work the work of the Commission and Commissioner Valdez.

Robert Valdez commented that Arizona Carpenters Local 1912 really appreciate the safety efforts of the Industrial Commission to keep them safe out there. He just retired after 30 years as a carpenter and still has all his fingers and that is for all of the Industrial Commission and ADOSH efforts and work and thank you very much.

Brian Clymer, attorney representing injured workers commented that it was nice to have a member from labor on the Commission again, that was always a tradition under republican or democratic governors. He was delighted to have the Commission here and see that Chairman Kavanaugh is leading the Commission because he has tremendous experience.

Sandy Ochoa commented that she has represented a lot of cases when she worked for the unions, and this is tremendous and would like to see more of this here in Tucson.

Chairman Kavanaugh thanked everyone for coming and Commissioner Valdez for hosting and all of her colleagues and friends.

The meeting was adjourned at 2:12 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By Gaetano J. Testini, Executive Deputy Director

ATTEST:

Yvonne Borunda, Acting Commission Secretary