

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, July 9, 2020 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
Scott P. LeMarr	Commissioner (Telephonic)
Steven J. Krenzel	Commissioner (Telephonic)
James Ashley	Director (Telephonic)
Gaetano Testini	Chief Legal Counsel (Telephonic)
Jason M. Porter	Deputy Director (Telephonic)
Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
Renee Pastor	Self Insurance (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. There were no other attendees on the telephone confirmed by roll call except staff.

Approval of Minutes of June 25, 2020 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the June 25, 2020 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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 Proposed Civil Penalties Against Uninsured Employers.

- | | | |
|-------------------|--|----------|
| 1. 2CLP19/20-0170 | Joel Herrera Garcia dba Noel's Landscaping | \$10,000 |
| 2. 2CLP19/20-0144 | Outside Solutions LLC | \$5,000 |
| 3. 2CSP19/20-0128 | Villegas Multi-Services LLC | \$1,000 |
| 4. 2CC19/20-0039 | Bjelde Construction LLC | \$1,000 |
| 5. 2CNP19/20-0237 | Bondra Development LLC | \$1,000 |
| 6. 2CNP19/20-0495 | A-Making Changes LLC | \$1,000 |
| 7. 2C19/20-0145 | The Property Options Group LLC dba P.O.G. Moving & Helpers | \$1,000 |
| 8. 2CNP19/20-0545 | Tonto Rock Products LLC | \$1,000 |

- b) 4365 E Irvington Rd, Tucson, AZ: Pulleys on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not fully enclosed by a guard. 29 CFR 1910.219(d)(1)
 Div. Proposal - \$600.00 Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 5b –

- a) 4365 E Irvington Rd, Tucson, AZ: The inclined belts on the Seneca Falls lathe, unknown model and serial numbers, were not fully enclosed by a guard.
- b) 4365 E Irvington Rd, Tucson, AZ: The inclined belts on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not fully enclosed by a guard. 29 CFR 1910.219(e)(3)(i)
 Div. Proposal - \$0.00 Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 5c –

- a) 4365 E Irvington Rd, Tucson, AZ: The sprocket wheel and chain on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not fully enclosed by a guard. 29 CFR 1910.219(f)(3)
 Div. Proposal - \$0.00 Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 6 –

- a) 4365 E Irvington Rd, Tucson, AZ: A written hazard communication program was not developed for employees who were exposed to the hazardous chemicals Xylene and HI THERM BC-346-A. 29 CFR 1910.1200(e)(1)
 Div. Proposal - \$600.00 Formula Amt. - \$600.00
- TOTAL PENALTY - \$4,000.00 TOTAL FORMULA AMT. - \$7,600.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Chairman Schultz commented that he was pleased with the thorough investigation and the citation groupings.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner Krenzel moved to approve the citation and proposed penalty as presented and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Mountain View Custom Cabinets, Inc.
 23306 N 15th Ave
 Phoenix, AZ 85027

Follow Up
 Years in Business: 22
 Empl. Covered by Inspection: 3

Site Location: 23306 N 15th Ave
 Phoenix, AZ 85027
 Inspection No: E0782 -1460424
 Inspection Date: 1/17/2020

REPEAT SERIOUS – Citation 1 - Item 1a –

- a) 23306 N 15th Ave, Phoenix, AZ 85027: A medical evaluation was not provided for one employee who was required to use a respirator in the workplace. 29 CFR 1910.134(e)(1)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.134(e)(1) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on March 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

REPEAT SERIOUS – Citation 1 - Item 1b –

- a) 23306 N 15th Ave, Phoenix, AZ 85027: One employee was required to wear a 3M half facepiece tight-fitting respirator was not fit tested. 29 CFR 1910.134(f)(2)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.134(f)(2) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on March 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

REPEAT SERIOUS – Citation 1 - Item 1c –

- a) 23306 N 15th Ave, Phoenix, AZ 85027: Training was not provided to one employee who was required to wear a 3M tight-fitting respirator. 29 CFR 1910.134(k)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.134(k) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on March 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

REPEAT SERIOUS – Citation 1 - Item 2 –

- a) 23306 N 15th Ave, Phoenix, AZ 85027: One employee who worked with hazardous chemicals such as Sher-Wood Vinyl Primer Surfacer and Sher-Wood Acrylic Conversion Coatings was not provided with information and training on the hazardous chemicals. 29 CFR 1910.1200(h)(1)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.1200(h)(1) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on March 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$2,000.00

Formula Amt. - \$1,000.00

Mr. Atencio noted the lack of response from the employer in this matter and after numerous attempts for abatement. He discussed ADOSH's current investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Vice Chair Hennelly and Mr. Atencio discussed the numerous attempts to contact the employer for abatement and the inspection process going back three years, as well as the attempts to have someone join the meeting so they can participate.

Vice Chair Hennelly confirmed it was the lack of responsiveness that led to the re-inspection and that the Commission often reduces penalties when there is quick abatement. Mr. Atencio agreed and noted this is not typical and ADOSH successfully works with the majority of employers.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner LeMarr moved to approve the citation and proposed penalty as presented and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Chairman Schultz noted that Mr. Atencio was generous with the groupings and appreciates how hard he tried to get these folks to respond and address these serious safety issues.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through August 2020. Vice Chair Hennelly and Commissioner LeMarr will not be available for the August 14, 2020 meeting and Chairman Schultz noted that meeting may be cancelled unless there is a time sensitive matter.

Ms. Dimas presented a retirement resolution for Gilbert Bracamonte, Senior Safety Consultant in the Tucson ADOSH Division for 34 years of state service. Mr. Atencio noted that Mr. Bracamonte wanted him to share his appreciation for the Commission and all that it does; as someone who started working at the Commission in 1985 a lot has improved, having worked for multiple Division Directors and Assistant Directors, he is happy to know with the progress made through AMS we are moving towards goals and accountability and are in a great position to continue to lead in our field.

Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 1:51 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary