

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 W. Washington  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, August 27, 2009 – 1:00 p.m.

Present:	Brian Delfs	Chairman
	Marcia Weeks	Vice Chairman
	Louis W. Lujano, Sr.	Member
	John A. McCarthy, Jr.	Member
	David Parker	Member
	Laura McGrory	Director
	Andrew Wade	Chief Legal Counsel
	Darin Perkins	Director, ADOSH
	Steven Black	Compliance, ADOSH
	Gary Norem	Chief Financial Officer
	Glenn Hurd	Financial Officer
	Jeri McAnerny	Tax Accountant
	Renee Pastor	Self Insurance
	Teresa Hilton	Commission Secretary

Chairman Delfs convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance was Jen Jones of Snell & Wilmer.

Approval of Minutes of August 20, 2009 Meeting

The Commission unanimously approved the Minutes of the August 20, 2009 meeting on motion of Mr. Lujano, second of Mr. McCarthy.

Discussion & Action of ADOSH Discrimination Complaint

#09-13 Richard Greer v. Angel Steel Erectors, LLC – Mrs. Weeks stated that before this case is discussed, she wanted to make a statement that the person involved in this case is a member of the Ironworkers' Local Union 75 and that her husband was the business manager and business agent for southern Arizona in the '60's and '70's and in the '80's he was Executive Director for the steel erector contractors. Darin Perkins then presented a summary of the Division's investigation of a discrimination complaint filed by Mr. Greer. In his complaint, Mr. Greer alleged that he was terminated because he refused to work over 20' above the ground without fall protection. He believed that he was not being given the opportunity to get the fall protection equipment that he knew was available. The employer stated that Mr. Greer was terminated because of his attitude toward working on the beams and that he did not know how to do the job.

Mr. Perkins described the allegations and the employer's response in detail and responded to questions from the Commissioners. Mr. Perkins stated that based on the information gathered during the investigation, it does appear that the evidence established a connection between Mr. Greer's termination and his refusal to work without fall protection and recommended that the case be pursued. Mr. Perkins also noted that it appears that this employer may have ceased doing business. The Commission unanimously voted to pursue the complaint on motion of Mr. Lujano, second of Mrs. Weeks.



involve similar or related hazards that may increase the potential for illness.

Citation 1, item 9a – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and the company did not use feasible engineering and work practice controls to limit employee exposure. (1910.1025(e)(1))

Citation 1, item 9b – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and the company had not established a written compliance program as described by the ADOSH lead standard. (1910.1025(e)(3)(i))

Div. Proposal - \$3,500.00

Formula Amt. - \$3,500.00

SERIOUS – Citation 1, item 10 – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and the company did not provide appropriate coveralls or similar full-body work clothing and shoes or disposable shoe covers. (1910.1025(g)(1))

Div. Proposal - \$3,500.00

Formula Amt. - \$3,500.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness.

Citation 1, item 11a – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and dust which contained lead was allowed to accumulate on equipment and floors including areas where forklifts operated. (1910.1025(h)(1))

Citation 1, item 11b – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and cleaning of lead dust accumulations was done with shovelling, dry sweeping and wet sweeping. Vacuuming or other equally effective methods had not been tried to determine effectiveness. (1910.1025(h)(2)(ii))

Div. Proposal - \$3,500.00

Formula Amt. - \$3,500.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness.

Citation 1, item 12a – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and food and beverages were stored and consumed at tables next to the work area. (1910.1025(i)(1))

Citation 1, item 12b – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and the company did not provide clean change rooms. (1910.1025(i)(2)(i))

Citation 1, item 12c – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and showering facilities were not provided. (1910.1025(i)(3)(i))

Citation 1, item 12d – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and adequate lunchroom facilities were not provided. (1910.1025(i)(4)(i))

Citation 1, item 12e - Employees who processed glass which contained lead were exposed to

lead above the permissible exposure limit and a single hand washing sink was available which was not adequate for the more than 20 employees who needed to wash their hands at the break and lunch periods. (1910.1025(i)(5))

Citation 1, item 12f – Employees who processed glass which contained lead were exposed to lead above the permissible exposure limit and the company did not post signs warning of lead hazards in the work area. (1910.1025(m)(2)(i))

Div. Proposal - \$3,500.00

Formula Amt. - \$3,500.00

SERIOUS – Citation 1, item 13 – Employees who processed glass which contained lead were exposed to lead above the action level and worked in the processing areas on a daily basis. The company had not established a medical surveillance program which met the requirements of the ADOSH lead standard. (1910.1025(j)(1)(i))

Div. Proposal - \$3,500.00

Formula Amt. - \$3,500.00

SERIOUS – Citation 1, item 14 – Employees who processed glass which contained lead were exposed to lead above the action level and the company did not institute a training program which included the information required by the ADOSH lead standard. (1910.1025(l)(1)(ii))

Div. Proposal - \$ 3,500.00

Formula Amt. - \$ 3,500.00

TOTAL DIV. PROP. - \$49,000.00

TOTAL FORMULA AMT - \$49,000.00

Darin Perkins summarized the citations and proposed penalty as listed. Mr. Perkins and Steven Black responded to questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$49,000.00 on motion of Mr. Lujano, second of Mrs. Weeks. Mrs. Weeks requested that ADOSH refer this matter to the Health Department and that Mr. Perkins report back to the Commission whether they have abated the hazards. In response to a question regarding whether any workers' compensation claims had been filed for lead illnesses, Mr. Perkins responded that he would investigate and provide a report to the Commissioners.

Hydro Aluminum North America, Inc.  
249 S. 51<sup>st</sup> Avenue  
Phoenix, AZ 85043

Complaint  
Yrs/Business – 104  
Empl. Cov. by Insp. – 211

Site Location: 249 S. 51<sup>st</sup> Avenue, Phoenix, AZ 85043

Inspection #: Z5834/313125726

Insp. Date: 03/30/09

SERIOUS – Citation 1, item 1 – Homogenizer Furnace: The natural gas fuel train on the Thorpe Technologies Homogenizer Furnace was not in compliance with NFPA 86 – Standard for Ovens and Furnaces and presented an explosion hazard to employees in that 1) the gas pressure regulator was the incorrect type, 2) the relief valve was not locked in the open position, and 3) the leakage test valve had not been capped. (23.403.A)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 2 – The belt conveyor had no system to warn of belt start-up and no emergency stop buttons were in place. (23.403(A))

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, item 3a – The employer did not ensure that ladderway floor openings or platforms

were provided with swinging gates or were offset so that a person could not walk directly into an opening. (1910.23(a)(2) There were 11 other instances of this violation.

Citation 1, item 3b - The employer did not ensure that employees were protected from falls when accessing the platform above the control room 14' above ground level. (1910.23(c)(1) There were 5 other instances of this violation.

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 4 – The employer did not ensure that compressed gas cylinders were used, handled and stored in compliance with CGA Pamphlet P-1-1965. (1910.101(b)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 5 – The employer did not ensure compliance with NFPA 58 - 1969 for the use of their 1,800 gallon underground LP gas tank. (1910.110(i)(3)(i)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 6 – The employer did not provide training for employees in the use, care and maintenance of the provided personal protective equipment (i.e. harness, lanyard, etc.) (1910.132(f)(1)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 7 – The employer had not established and implemented a written lockout/tagout program and procedures for the maintenance and servicing on a machine or equipment where the unexpected energizing, start up or release of stored energy could occur. (1910.147(c)(1)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 8 – An eyewash station was not available for quick drenching or flushing of the eyes and body in the event of an emergency situation. (1910.151(c) There were two other instances of this violation.

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, item 9a – One of two spreader bars on the Gantry crane did not have the load capacity marked on it. (1910.179(b)(5) There were 3 other instances of this violation.

Citation 1, item 9b - The employer did not ensure that the 15-ton Gantry crane had trolley stops installed and intact. (1910.179(c)(1)(i)

Citation 1, item 9c - The employer did not ensure that the 15-ton Gantry crane had bridge bumpers installed and intact. (1910.179(e)(2)(i)

Citation 1, item 9d - The employer did not ensure all electrical equipment was properly closed to the elements on the Gantry crane. (1910.179(g)(2)(ii)

Citation 1, item 9e - Overhead underhung trolley hoisting units were subjected to monthly hook inspections, but signed reports were not available upon request. (1910.179(j)(2)(iii) There were 5 other instances of this violation.

Citation 1, item 9f - Monthly inspections of the hoist chains had been performed, but signed reports were not available upon request. (1910.179(j)(2)(iv) There were 5 other instances of this violation.

Citation 1, item 9g - The employer allowed the Gantry crane to operate after unsafe conditions were noted in the frequent and periodic inspections. (1910.179(l)(3)(i)

Citation 1, item 9h - The pendant control for the half ton bridge crane has illegible function buttons. (1910.179(l)(3)(iii)(d)

Citation 1, item 9i - Monthly inspections of ropes had not been performed nor were signed reports available upon request. (1910.179(m)(1) There were 5 other instances of this violation.  
Div. Proposal - \$2,250.00 Formula Amt. - \$2,250.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, item 10a – Chain slings were not inspected daily by a competent person. (1910.184(d) There was another instance of this violation.

Citation 1, item 10b - Chain slings did not receive a thorough periodic inspection at least annually by a competent person. (1910.184(e)(3)(i)

Citation 1, item 10c - The employer did not ensure that monthly alloy chain sling inspection records were available upon request. (1910.184(e)(3)(ii)

Citation 1, item 10d - A damaged alloy chain sling was in use in the casting pit. (1910.184(e)(7)(i)  
Div. Proposal - \$2,250.00 Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 11 – The cover on the metal box that encloses part of the shaft housing was not secure. (1910.212(a)(1) There were 8 other instances of this violation.  
Div. Proposal - \$2,250.00 Formula Amt. - \$2,250.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, item 12a – The radial arm saw had a damaged lower blade guard. (1910.213(h)(1)

Citation 1, item 12b - The arm on the arm saw did not return upon release to its starting position. (1910.213(h)(4)  
Div. Proposal - \$2,250.00 Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 13 – One outside diameter grinder did not have a safety guard installed to cover the spindle end, nut and flange of the grinder. (1910.215(a)(2)  
Div. Proposal - \$2,250.00 Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 14 – The waste belt conveyor from the billet saw did not have a guard covering the unsmooth shaft and unsmooth end. (1910.219(c)(4)(i) There were 4 other instances of this violation.  
Div. Proposal - \$2,250.00 Formula Amt. - \$2,250.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, item 15a – The drill press did not have a guard for the upper pulleys and belts. (1910.219(d)(1))

Citation 1, item 15b - The vertical band saw did not have a guard for the pulleys and belts on the rear. (1910.219(d)(1))

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 16 – The billet saw's conveyor did not have guards installed to prevent a person from placing any part of their body into the danger zone during operation of the conveyor, near the nip points of the sprocket and chain and the pinch point where the chain completes its rotation around the sprocket at the discharge end of the conveyor. (1910.219(f)(3)) There was another instance of this violation.

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 17 – Safety related work practices had not been developed or implemented for maintenance personnel performing work on or near equipment or circuits that were energized or could be energized. (1910.333(a))

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, item 18 – Employees were not provided with adequate personal protective equipment designed to protect employees working on energized equipment. (1910.335(a)(1)(i))

Div. Proposal - \$ 2,250.00

Formula Amt. - \$ 2,250.00

TOTAL DIV. PROP. - \$40,500.00

TOTAL FORMULA AMT - \$40,500.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$40,500.00 on motion of Mr. McCarthy, second of Mr. Lujano. Mrs. Weeks noted that ADOSH had done a lot of work on this file and a good job.

Taylor Enterprises, Inc.  
615 E. Wigwam Blvd.  
Litchfield Park, AZ 85340

Complaint  
Yrs/Business – 26  
Empl. Cov. by Insp. – 6

Site Location: 1030 E. Buckeye Road, Phoenix, AZ 85034

Insp. #: A7717/313587552

Insp. Date: 06/23/09

SERIOUS – Citation 1, item 1 – One employee was walking/working on a roof top 24' above the ground without a fall protection system installed to prevent a fall. (1926.501(b)(1)).

(Three inspections with 4 serious and 4 nonserious violations in the past three years).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 2 – the employer did not ensure the fall arrest system (horizontal lifeline) was designed by a qualified person. (1926.502(d)(8))

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 3 – The employer did not ensure the personal fall arrest system would prevent a free fall of more than 6' (1.8m) or contact with a lower level.

(1926.502(d)(16)(iii)  
Div. Proposal - \$ 750.00  
TOTAL DIV. PROP. - \$2,250.00

Formula Amt. - \$ 750.00  
TOTAL FORMULA AMT - \$2,250.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Mr. Parker questioned the past history and whether any of the violations had involved fall protection. Mr. Perkins responded that one was for a fall protection violations in March of 2008. Following further discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and increased the penalty to \$1,000.00 for each violation for a total penalty of \$3,000.00 by removing the 10% adjustment factor for history on motion of Mr. Parker, second of Mrs. Weeks.

Discussion & Action of Proposed Civil Penalties Against Uninsured Employers

2C08/09-1196	Arcadia Assisted Living, L.L.C.
2C08/09-1959	Gro Industries, Inc.
2C08/09-1033	Loving Care Home LLC
2C08/09-2108	Meridian 55, L.L.C. fka Gateway Portable Crushing & Recycling
2C08/09-2036	SVP Manufacturing, Inc.

Andrew Wade advised that a compliance investigation confirmed that the above listed employers were operating (or had operated) a business with employees, but without workers' compensation insurance. Giving consideration to the factors of A.R.S. §23-907(K), Mr. Wade recommended that civil penalties of \$1,000.00 be assessed against employers #1196, 1959, 1033 and 2036. He advised that employer #1959 has recently obtained workers' compensation coverage, but it is not effective until September 1, 2009 and his recommendation is still for a \$1,000.00 penalty. Mr. Wade also recommended a civil penalty of \$5,000.00 be assessed against employer 2108 as this is their second civil penalty this year. Mr. Wade responded to questions from the Commissioners regarding these employers and their coverage histories and stated that all had either wage or no insurance claims. The Commission unanimously assessed the recommended penalties of \$1,000.00 against employers #1196, 1959, 1033 and 2036 and a penalty of \$5,000.00 against employer #2108 on motion of Mr. McCarthy, second of Mr. Lujano.

Discussion & Action of Attorney Fee Petition

Richard E. Taylor v. David A. Christian – Mr. Wade advised that attorney Richard Taylor has requested that the Commission award attorney fees for the work performed by his firm and Peter Van Baalen for a five year period in the amount of 25% of the benefits Mr. Christian receives under a stipulation for loss of earning capacity. He gave a description of the injury and claim activity and the work performed by the attorneys. Both parties agree that the attorney fee was contracted for in the employment agreement signed by Mr. Christian. The Legal Division has estimated that attorney time spent on Mr. Christian's case amounted to 30 hours. To date, \$4,316.55 has been paid by Mr. Christian in attorney fees. Mr. Wade recommended that no further attorney fees be paid to Mr. Taylor as it would appear that he has been fairly compensated for the work performed for Mr. Christian. Following discussion, the Commission unanimously denied awarding additional attorney fees on motion of Mr. Lujano, second of Mr. McCarthy. Mr. Parker stated that staff had prepared a very well reasoned and well stated report.

Chairman Delfs called a brief recess at 2:15 p.m. The meeting reconvened at 2:23 p.m.

Discussion &/or Action regarding Assessments under A.R.S. §§23-961(J), 23-966(D), 23-1065(A) and 23-1065(F)

Laura McGrory provided a summary of the four assessments that the Commission has the authority to levy. She stated that with respect to any action taken today, she would recommend that a separate motion be made for each of the four assessments. She stated that the administrative fund tax is currently 3% and the 23-1065(A) Special Fund assessment is 1 ½%. The issue before the Commissioners is whether to continue those assessments for CY 2010 and also to consider whether to impose additional ½% assessments under the insolvency carrier and apportionment liability statutes, 23-966(D) and 23-1065(F).

Ms. McGrory stated that the Commissioners were previously provided a well-written and comprehensive document from Gary Norem that lays out the issues and describes the financial situation of the Special Fund, historical sources of revenue, future projections, and the impact on the Special Fund of different assessment alternatives in the form of tables and charts. From a staff perspective, Ms. McGrory stated that the Commission needs to ensure that enough revenue is coming in on the administrative side to cover the agency's appropriated budget, and that based on staff's projections, the administrative fund tax can be reduced to 2.65%. On the Special Fund side, she stated that staff is looking at the future solvency of the Special Fund and she described the impact on that solvency if principal is withdrawn from the investment portfolio of the Special Fund. She described how annual expenditures of the Special Fund are paid through assessments and investment returns. She advised that the staff recommendation is to re-institute the two Special Fund ½% assessments, which would bring the total Special Fund assessment to the full 2 ½%. The overall impact of staff's recommendations would be total assessment of 5.15%, which is an increase of 0.65% from the current 2009 rate of 4.5%.

Mr. Delfs thanked staff for all of the information provided and agreed with the concerns regarding the solvency of the Special Fund and using principal of the Special Fund. If the principal is dipped into, it would be difficult to bring it back up. He also expressed concern that if the taxes are increased, it would have an adverse impact on employers. He also expressed concern that, given the current economy, there would be future insolvencies, which would have an impact on the Special fund. Mr. Lujano asked if action on the assessment would impact any ongoing litigation. Ms. McGrory responded to his question and provided the criteria that they should consider when making their decision.

Mr. Parker described his review and analysis of the actuarial reports and statutes. He described the approach utilized in the actuarial report for discounting. He expressed concern that since interest is being used to fund claims that are incurred in the current year, then in theory we should recognize the undiscounted present value of those future liabilities. He also stated the special fund is a safety net without a cap and he described that difference as compared to other guaranty funds. He talked about the language of the statutes as they pertain to the funding level of the Special Fund noting that it is required to be on an actuarial sound basis based upon an annual actuarial report. He then described the factors taken into consideration when drafting an actuarial report, noting that in the agency's actuarial report, a 75% confidence level is used, which is called a risk margin in that report. He stated that the Commission has done a very good job of identifying that number.

Mr. Parker provided to the Commissioners copies of a chart he put together based on the different types of funding at a 50% and 75% confidence level. He described the components of the chart and talked about affect of the insolvencies on the Special Fund in the early 2000's. He stated that Fremont still accounts for half the liabilities in the fund. He stated that whatever is done, we need to recognize that we are a safety net and we have to be ready to take a fairly substantial hit and still be solvent. Mr. Parker made suggestions in view of the risks to the Special Fund. He stated that we need to have the best early alert system possible for insolvencies. He also stated that we need to ask the actuary to project out the next two years, which is common in the industry. We can build that funding into the rate each year and we become more stable. He talked about the importance of recognizing the risk to the Special Fund,

which involves more than being fully funded. Mr. Parker answered questions from the other Commissioners regarding the risk margin and total liability situation.

Discussion followed regarding the estimated \$50.8 million deficit today which does not include the \$80 million risk margin. Mr. Norem explained that if the maximum 2.5% Special Fund tax is assessed, revenue of \$18.9 million is projected for CY 2010. The cash flow needs of the Special Fund are \$32.1 million yearly, and if the remainder is not made up by investment income, then it will have to come from principal. Mr. Parker also proposed that in the future the actuarial reports project and fund claims coming prospectively. Ms. McGrory described the historical payment of Special Fund obligations from investment income and stated that with recent negative investment returns, and future years projected to be 5%, the agency needs to work towards bringing in enough assessment revenue so that money does not have to be pulled from the principal of the Special Fund. Ms. McGrory also advised that the NCCI has filed a proposed overall rate decrease of 5.1% for workers' compensation premiums. This is good for employers, but will mean less money coming in from the taxes.

The Commission unanimously approved decreasing the assessment under §23-961(J) to 2.65% for CY 2010 on motion of Mr. Lujano, second of Mr. McCarthy. The Commission unanimously imposed the ½% assessment under §23-966(D) for CY 2010 due to net loss incurred by the Special Fund on motion of Mr. Lujano, second of Mr. Parker. The Commission unanimously voted to continue the 1 ½% assessment under §23-1065(A) for CY 2010 on motion of Mr. Lujano, second of Mr. Parker. The Commission unanimously voted to imposed the ½% assessment under §23-2065(F) for CY 2010 due to the annual reserved liabilities for apportionment claims exceeding \$6 million and the Special Fund not being actuarially sound on motion of Mr. Lujano, second of Mr. McCarthy. Chairman Delfs thanked Mr. Norem and his staff for their hard work on this subject. Mr. Lujano also thanked Mr. Parker for his input.

#### Discussion &/or Action regarding Operations of the Industrial Commission, including Website Redesign Overview and Selection of Agency Slogan

Ms. McGrory advised that in order to conform to GITA requirements, the agency is working on updating the web site with a uniform template which has the capability to add a slogan for the agency. She has provided a list of suggestions from employees and stated it is up to the Commissioners whether they want to add a slogan to the new website. Following discussion, the Commission agreed to adopt the slogan, "Protection of life, health, safety and welfare of Arizona's most valuable assets".

#### Discussion &/or Action regarding Legislation

Ms. McGrory stated that the Legislature adjourned on Tuesday and that Mr. Butler will give an update at next week's meeting.

Discussion &/or Action regarding Industrial Commission of Arizona, for Itself and as Trustee for the Special Fund of the Industrial Commission of Arizona; and the Special Fund of the Industrial Commission of Arizona, Petitioners, v. Dean Martin, Arizona State Treasurer, in his official capacity; Janice K. Brewer, Governor of the State of Arizona, in her official capacity, Respondents. The Commission may move into Executive Session under A.R.S. §§38-431.03(A)(3) and (A)(4) for Discussion and Consultation with the Attorneys of the Public Body regarding Pending Litigation or Settlement Discussions in order to resolve Litigation. 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

Mr. Wade stated that discovery is ongoing.

#### Announcements

Ms. Hilton reminded the Commissioners that the next meeting will be held on

Wednesday, September 2, 2009. The Commission scheduled additional meetings for Thursday, September 17<sup>th</sup> and Thursday, October 1<sup>st</sup>. No meetings were scheduled for the weeks of September 7<sup>th</sup> and September 21<sup>st</sup>.

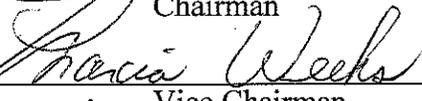
Ms. McGrory stated that the CPI figures should be out soon and the Commission will need to set the minimum wage for 2010, probably in early October. She stated that, as requested at last week's meeting, the OSHA packet for next week now contains color photographs relating to the citations.

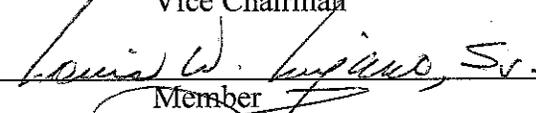
There being no further business to come before the Commission and no public comment, Chairman Delfs adjourned the meeting at 3:12 p.m.

APPROVED:

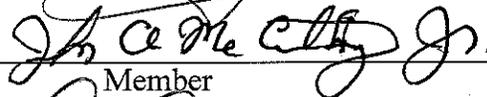
THE INDUSTRIAL COMMISSION OF ARIZONA

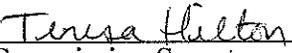
By   
Chairman

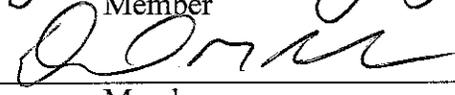
By   
Vice Chairman

By   
Member

ATTEST:

By   
Member

  
Commission Secretary

By   
Member