

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at JW Marriott Camelback Inn Scottsdale
5403 E. Lincoln Drive
Scottsdale, AZ 85253
Friday, August 19, 2022 – 2:00 p.m.

Present: Dale L. Schultz	Chairman
Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
Scott P. LeMarr	Commissioner
D. Alan Everett	Commissioner
James Ashley	Director
Gaetano Testini	Chief Legal Counsel
Renee Pastor	Self Insurance
Jessie Atencio	ADOSH Director
Jonathan Wright	ADOSH Compliance
Anna Maria Stonerock	ADOSH Admin
Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 2:00 p.m. In attendance, confirmed by roll call were Glenn W. Reinier, Geoff Heitzenraker and Jay Robie (Phoenix Group Metals). Also in attendance on the telephone, confirmed by roll call was Dale Haglin (Arizona Snowbowl).

Approval of Minutes of August 11, 2022 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the August 11, 2022 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett 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. 2CSP21/22-0079 Bein Performance Horses, L.L.C. \$1,000
2. 2C21/22-0058 Shanley Works LLC \$1,000
3. 2CSP21/22/0080 Western Village Enterprises, Inc. \$1,000
4. 2CNP21/22-0453-Post CP - 2CNP21/22 Cat Back Mountain Excavating LLC \$5,000

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

1. Chevron U.S.A., Inc.

SERIOUS – Citation 1 - Item 2a –

- a) Production floor: An employee was performing service on a McIntyre Shear, model #500GT and serial numbers unknown, without an adequate Lockout/Tagout Program in place to prevent the unintended energy from being released. 29 CFR 1910.147(c)(1):
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2b –

- a) Production floor: An employee was performing service on a McIntyre Shear, model #500GT and serial numbers unknown, without procedures in place. 29 CFR 1910.147(c)(6)(i)
Div. Proposal - \$0.00 Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 3 –

- a) Production floor: An employee operated a McIntyre shear, model #500GT and serial numbers unknown, without a guard in place to prevent accidental contact.
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00
TOTAL PENALTY - \$3,000.00 TOTAL FORMULA AMT. - \$6,000.00

Mr. Atencio stated the compliance officer was no longer with the agency. Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner LeMarr noted the grouping was generous.

Chairman Schultz was surprised and amazed that this was a business that extracts platinum, rhodium and palladium from catalytic converters. Mr. Atencio also added that the company has a metallologist and lab to verify the concentration and purity. With heavy metals like beryllium you have to be very careful and have some type of protection.

Chairman Schultz agreed that it was very appropriate in terms of grouping of the citations.

Chairman Schultz checked if representative from Phoenix Group Metals would like to comment.

Mr. Robie, the owner of Phoenix Group Metals provided the company background and operation information. Mr. Robie asked Mr. Reinier and Mr. Heitzenraker to do an audit of the facility because he did not feel the supervisor at that time was paying enough attention to it. The Supervisor was with them through the audit and was fired the next day. A week later ADOSH, the City of Phoenix, ADEQ and Department of Labor were all notified of potential violations. Since then Mr. Reinier and Mr. Heitzenraker have been working on bringing everything up to speed. Overall the facility is very well run and very safety conscience and he did not know all of the rules and regulations, but tried to be in as much compliance as he could which is why he brought in Mr. Reinier and Mr. Heitzenraker.

Mr. Heitzenraker noted his qualifications and stated the company is here to work with ADOSH and would love to have ADOSH back because he thought some of the data collected is unsubstantiated.

Chairman Schultz asked if there is a plan for the needed corrections and a budget established to make those changes.

Mr. Heitzenraker noted they have the plans with them along with all of the industrial hygiene data and all will be really quick fixes.

Mr. Reinier noted they have already decided what needed to be done prior to the inspection, and were just starting to get it rolling.

Mr. Heitzenraker thought the forum was a good thing and knows this is the only state that does it and was surprised by it.

Chairman Schultz noted that the Commission has made great strides in trying to be fair. Technically looking at the pictures here, there could have been more citations especially with the way the standards work, there is a standard for the problem, what happened and if someone gets hurt, there is one for training and for documentation and all of those can be broken out separately or, as in this case, they can be grouped together and appreciates Mr. Atencio's philosophy in saying it is one problem and there are pieces to it, but it is really only one problem and to look at it that way. It is not about nitpicking, it is about making sure that the place is safe and that is why the Commission appreciates the employer being at the Commission meeting.

Commissioner LeMarr moved to amend the citation and proposed penalties. He appreciated Mr. Robie for bringing his safety professionals and it is clear from the discussions that they have already abated several items and moved to approve the Citation with a 25% Good Faith Discount for the abatement for a total of \$2,250.00. Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley acknowledged a highly successful in-person Claims Seminar with a turn out greater than the last in-person seminar in 2019, attendees were happy to be back in person, many great speakers both internal from the agency and external and plenty of great feedback received. He thanked everyone who worked so hard to make the two-day seminar a success.

Chairman Schultz felt Representative Ben Toma was a good choice as a speaker, he also noted there were many new faces and a large number of out of state adjustors which are pleasant surprises. Chairman Schultz also enjoyed the breakout sessions on Thursday.

Commissioner Everett agreed.

Ms. Dimas and Mr. Ashley confirmed the meeting for August 25 will be in Tucson following a manufacturing tour and meeting.

Ms. Dimas confirmed Commission meeting dates through October 2022.

Ms. Dimas presented a retirement resolution for Alberto Moreno for 17 years of service as a Safety Consultant in the ADOSH Division and Marceline Lavelle for 6 years of service as an Administrative Law Judge in the ALJ Division

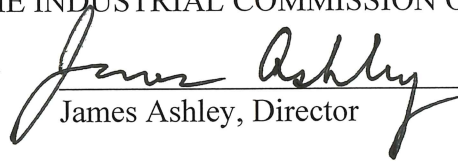
Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion and the meeting was adjourned at 3:08 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary