MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 2675 East Broadway Boulevard Tucson, Arizona 85716 Thursday, August 25, 2022 - 1:30 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

Trevor Laky

Legislative Affairs Chief/Public Information Officer

Renee Pastor Charles Carpenter

Self Insurance (Telephonic) MRO Manager (Telephonic)

Renee Englen Jessie Atencio MRO (Telephonic) **ADOSH Director**

Yvonne Borunda

Acting Commission Secretary

Chairman Schultz convened the meeting at 1:30 p.m. In attendance, confirmed by roll call were Steven Barnes, Joel Loranger, Michael Bryant, Ernest Delgado, Brandt Smith, Mark Norton (ADOSH Tucson staff); Ana Acosta, Shelley Tolman (Tucson ALJ staff); and Giulia Valluzzi. Also in attendance on the telephone, confirmed by roll call Susan Blythe (City of Casa Grande).

Approval of Minutes of August 19, 2022 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the August 19, 2022 regular session meeting and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr 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 Requests for Renewal of Self-Insurance Authority.
 - 1. American Furniture Warehouse Co. Inc.

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

Discussion and Action regarding the 2022/2023 Arizona Physicians' and Pharmaceutical Fee Schedule.

Mr. Carpenter presented the recommendations for the 2022-2023 Physicians' and Pharmaceutical Fee Schedule:

Chairman Schultz asked if there were any other comments, hearing none.

Chairman Schultz read the recommended Resolution that the Commission would adopt.

Commissioner LaMarr moved to approve staff recommendations as presented and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett 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 Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Mr. Atencio removed Amado Management, LLC from the agenda.

AMMA Investment Group, LLC

2935 E Frontage Rd #800

Amado, AZ 85645
Site Location:

2935 E Frontage Rd #800

Amado, AZ 85645

Inspection No:

UR-2022-T3633-0053

Inspection Date:

July 20, 2022

SERIOUS - Citation 1 - Item 1a -

a) Southwest corner of Building #1: Employees working in the drying, packaging, and shipping and receiving areas did not have two exit routes available. 29 CFR 1910.36(b)(1)

Div. Proposal - \$5,000.00 Formula Amt. - \$5,000.00

SERIOUS – Citation 1 - Item 1b –

- a) East packaging area: One of two exit doors from the area to the adjoining corridor was blocked with boxes of stored items.
- b) Extraction area: The walkway through the extraction area was partially blocked by stored items so that in one place the exit route was 14 inches wide. 29 CFR 1910.37(a)(3)

 Div. Proposal \$0.00 Formula Amt. \$5,000.00

SERIOUS – Citation 1 - Item 2 –

a) Extraction area: Employees used 3M brand half-face respirators, and a respiratory protection program had not been implemented. 29 CFR 1910.134(c)(1)

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

Unprogrammed Related

Empl. Covered by Inspection:

6 176

Years in Business:

SERIOUS – Citation 1 - Item 3a –

a) Extraction area: An employee worked with chemicals including butane, alcohols, magnesium silicate, and amorphous silica, and the employer had not maintained a hazard communication program. 29 CFR 1910.1200(e)(1)

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS – Citation 1 - Item 3b –

a) Maintenance area: A plastic container containing ethanol was not labeled, tagged, or marked. 29 CFR 1910.1200(f)(6)

Div. Proposal - \$0.00

Formula Amt. - \$2,500.00

SERIOUS – Citation 1 - Item 3c –

a) Maintenance area: A plastic container containing ethanol was not labeled, tagged, or marked. 29 CFR 1910.1200(h)(1)

Div. Proposal - \$0.00

Formula Amt. - \$2,500.00

TOTAL PENALTY - \$10,000.00

TOTAL FORMULA AMT. - \$20,000.00

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

Chairman Schultz checked if anyone would like to comment.

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

City of Casa Grande - Wastewater

Program Planned

510 E Florence Blvd

Years in Business:

Empl. Covered by Inspection:

140 16

Casa Grande, AZ 85122

202 E 1st Avenue

7.05100

Inspection No:

Site Location:

Casa Grande, AZ 85122

Inspection Date:

PP-2022-T3633-0036

April 12, 2022

SERIOUS – Citation 1 - Item 1 –

- a) Headworks, East track: The four foot by four foot opening over the bar screen pit next to the rake was not covered, leaving employees exposed to the fall hazards into the 15 foot deep pit.
- b) Headworks, West track: The four foot by four foot opening over the West bar screen pit next to the rake was not covered, leaving exposed to the fall hazards into the 15 foot deep pit. 29 CFR 1910.28(b)(6)(ii)(A)

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS – Citation 1 - Item 2a –

- a) Headworks, East track: Employees were exposed to the moving rake mechanism on a Duperon brand bar screen rake, unknown model and serial number, after guard panels were removed.
- b) Headworks, West track: Employees were exposed to the moving rake mechanism on a Duperon brand bar screen rake, unknown model and serial number, after guard panels were removed.
- c) Solids Room: Employees used an Ashbrook Simon-Hartley brand conveyor roller that had an unguarded in-going nip point. 29 CFR 1910.212(a)(1) Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS – Citation 1 - Item 2b –

- a) Headworks, East track: Employees used a Duperon brand bar screen rake, unknown model and serial number, that had an unguarded rotating shaft on the right side.
- b) Headworks, West track: Employees used a Duperon brand bar screen rake, unknown model and serial number, that had unguarded rotating shaft on the left side. 29 CFR 1910.219(c)(2)(i) Div. Proposal - \$0.00 Formula Amt. - \$2,500.00

SERIOUS - Citation 1 - Item 3a -

a) 1194 W Kortsen Rd, Casa Grande: Employees did maintenance work on motor control centers and were not qualified in that they were not familiar with, and did not use the personal protective equipment required for the work. 29 CFR 1910.333(c)(2) Formula Amt. - \$2,500.00 Div. Proposal - \$2,500.00

SERIOUS - Citation 1 - Item 2 -

a) 1194 W Kortsen Rd, Casa Grande: Employees did maintenance work on motor control center centers without arc flash hazard rated personal protective equipment. 29 CFR 1910.335(a)(1)(i)

Div. Proposal - \$0.00

Formula Amt. - \$2,500.00

TOTAL PENALTY - \$7,500.00

TOTAL FORMULA AMT. - \$12,500.00

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

Commissioner LeMarr advised Mr. Atencio that the document formatting of the narratives was incomplete next to the pictures.

Chairman Schultz checked if anyone would like to comment.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner LeMarr 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 commented that Special Fund Manager Terry Ann Apodaca received great feedback at the Claims Seminar including one from an out-of-state adjuster who shared that the people from Arizona were the nicest and most helpful of any state she deals with.

Mr. Ashley expressed the agency's appreciation for the safety tour at Schnipke Southwest and congratulated ICA Tucson for achieving Voluntary Protection Program status.

Ms. Borunda confirmed Commission meeting dates through October 2022.

Public Comment.

There was no other 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 2:15 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

Bv

James Ashley, Director

ATTEST:

Yvonne Borunda, Acting Commission Secretary