

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Monday, December 19, 2022 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
Scott P. LeMarr	Commissioner (Telephonic)
D. Alan Everett	Commissioner (Telephonic)
James Ashley	Director (Telephonic)
Gaetano Testini	Chief Legal Counsel (Telephonic)
Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
Lisa Padgett	Labor Director (Telephonic)
Christina Sanchez	Labor Division (Telephonic)
Melissa Spurgeon	Labor Division (Telephonic)
Melissa Hinojosa	Labor Division (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Anna Maria Stonerock	ADOSH Admin (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were Michael Tueller (Stotz Dairy LLC, dba Stotz Farm LLC); Pedro Chavez (Next of Kin); Branden Armour (In Self Storage 19A); Michael Croudep, Gabriel Mayer and David Dominguez (Trulite Glass & Aluminum Solutions).

Approval of Minutes of December 15, 2022 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the December 15, 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 Proposed Youth Employment Penalty.

1. YL-2223-0006 SSCV Restaurant Corporation DBA Culver's \$600.00

Commissioner LeMarr moved to approve the items on the Consent Agenda 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, Action, and Potential Resolution regarding Final Rulemaking to Title 20, Chapter 5, Article 12. Arizona Minimum Wage and Earned Paid Sick Time Practice and Procedure.

Mr. Testini noted the Legal Division is recommending to enter into final rulemaking regarding Article 12 Arizona Minimum Wage and Earned Paid Sick Time Practice and Procedure. He requested authorization to move forward with the final rulemaking process with electronic signatures.

Chairman Schultz read the Resolution.

Commissioner LeMarr moved to approve proposed rulemaking for Article 12 Arizona Minimum Wage and Earned Paid Sick Time Practice and Procedure and to authorize the Legal Division to proceed with rulemaking with electronic signatures. 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.

Stotz Dairy LLC dba Stotz Farm, LLC	Fatality	
29505 W Southern Ave	Years in Business:	41
<u>Buckeye, AZ 85326</u>	Empl. Covered by Inspection:	2
Site Location:	29505 W Southern Ave	
	Buckeye, AZ 85326	
Inspection No:	FC-2022-A7576-0023	
Inspection Date:	September 13, 2022	

Mr. Atencio summarized ADOSH's investigation and reviewed the file. ADOSH was not recommending a citation for Stotz Dairy LLC, dba Stotz Farm, LLC.

Chairman Schultz and Mr. Atencio discussed if a workers' compensation claim had been filed.

Chairman Schultz checked if Mr. Tueller would like to comment. Mr. Tueller noted that the workers' compensation claim was filed and had no other comments.

Chairman Schultz checked if Mr. Chavez would like to comment. Mr. Chavez had no comments.

Chairman Schultz expressed condolences to Mr. Chavez and the family, this is a horrible thing to have happened and unbelievable and tragic and thanked Mr. Chavez for joining.

The Commission adhered to ADOSH's recommendation.

In Self Storage 19A, LLC
6260 N Travel Center Dr
Tucson, AZ 85741

Complaint
Years in Business: 4
Empl. Covered by Inspection: 3

Site Location: 6260 N Travel Center Dr
Tucson, AZ 85741
Inspection No: CP-2023-RS480-0020
Inspection Date: October 20, 2022

SERIOUS – Citation 1 - Item 1 –

- a) Storage warehouse B: Three employees used a Tusk brand forklift, model 800CG-8, serial number 1-331-56A, equipped with an improvised towing attachment without manufacturers prior written approval.
- b) Storage warehouse C: Three employees used a Toyota brand forklift, model 426FG0U25, serial number 65230, equipped with an improvised towing attachment without manufacturers prior written approval. 29 CFR. 1910.178(a)(4)
Div. Proposal - \$2,486.00 Formula Amt. - \$2,486.00

SERIOUS – Citation 1 - Item 2 –

- a) 6260 N Travel Center Dr Tucson, AZ 85741: Two employees were not trained and evaluated on how to operate a Tusk brand forklift, model 800CG-8, serial number 1-331-56A.
 - b) 6260 N Travel Center Dr, Tucson, AZ 85741: Two employees were not trained and evaluated on how to operate a Toyota brand forklift, model 426FG0U25, serial number 65230.
 - c) 6260 N Travel Center Dr Tucson, AZ 85741: One employee with prior training on a Class I forklift, did not receive an evaluation from a trained forklift operator while employed by the company. 29 CFR. 1910.178(l)(1)(i)
Div. Proposal - \$2,486.00 Formula Amt. - \$2,486.00
- TOTAL PENALTY - \$4,972.00 TOTAL FORMULA AMT. - \$4,972.00

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

Chairman Schultz checked if Mr. Armour would like to comment.

Mr. Armour commented that they have acted on all of these items except the forklift which an engineer is now working to resolve.

Chairman Schultz responded that it does help and the intention of the Commission is to provide the employees of Arizona safe workplaces which happens when we have employers who care enough to make the appropriate changes to keep their folks safe.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Schultz asked Mr. Armour to provide evidence of his abatement efforts and it does make a difference in the process and to make sure that Mr. Atencio or the Compliance Officer are provided that information. Mr. Armour confirmed the process with Chairman Schultz. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Trulite Glass & Aluminum Solutions, LLC
 1825 S 43rd Ave
 Phoenix, AZ 85009

Complaint
 Years in Business: 12
 Empl. Covered by Inspection: 40

Site Location: 1825 S 43rd Ave
 Phoenix, AZ 85009
 Inspection No: CP-2023-A7717-0031
 Inspection Date: October 20, 2022

SERIOUS – Citation 1 - Item 1 –

- a) Sanding table: One employee was exposed to rotating moving fan blade on a table blower, model and serial numbers unknown, that lacked a guard to prevent accidental contact.
- b) Glass Insulating Line: One employee was exposed to a moving arm on a machine, model and serial numbers unknown, that lacked an adequate guard to prevent accidental contact.
- c) Glass Insulating Line: Two employees were exposed to a moving chain conveyor belt, model and serial numbers unknown, that lacked a guard to prevent accidental contact.
- d) Polisher #2: One employee was exposed to an ingoing nip point on a conveyor belt for the ELB10-45, model and serial numbers unknown. 29 CFR. 1910.212(a)(1)

Div. Proposal - \$10,360.00	Formula Amt. - \$10,360.00
TOTAL PENALTY - \$10,360.00	TOTAL FORMULA AMT. - \$10,360.00

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

Chairman Schultz checked if anyone with Trulite Glass & Aluminum Solutions would like to comment.

Mr. Croudep commented that within 10 to 12 hours all issues were rectified.

Chairman Schultz thanked Mr. Croudep for his comments and noted if he was unsure if his abatement got to Mr. Atencio or back to the compliance officer, to make sure that they get that information because it is extremely important in the final determination.

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 announced the 2023 ICA Day at the Capitol will be April 18, 2023, held in Wesley Bolin Memorial Plaza.

Ms. Dimas confirmed Commission meeting dates through February 2023. Chairman Schutlz and Commissioner LeMarr noted they have a potential conflict with the January 12 meeting date.

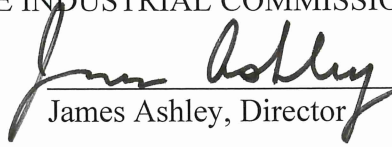
Public Comment.

There was no public comment.

Commissioner Everett moved to adjourn and Vice Chair Hennelly 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 1:55 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary