

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, January 26, 2023 – 1:00 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
Trevor Laky	Legislative Affairs Chief/Public Information Officer
Lisa Padgett	Labor Director
Melissa Spurgeon	Labor Investigator
Christina Sanchez	Labor Investigator
Christina Lasater	Labor Investigator
Jennifer Cox	Labor Investigator
Jennifer Krainski	Labor Investigator
Jessie Atencio	ADOSH Director
Anna Maria Stonerock	ADOSH Admin
Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Joanna Couch, Darren Couch and Sabrina Aragon (The Soap Gal); and Kaila Hopkins (Snell & Wilmer).

Approval of Minutes of January 19, 2023 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the January 19, 2023 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 Youth Employment Penalty.

1. YL-2223-0031 Sauce & Dough DBA Hungry Howie's Pizza \$600
2. YL-2223-0010 Lake Como at Kierland, LLC DBA Frost Gelato Kierland \$800
3. YL-2223-0029 Jaytoo Enterprises, Inc. DBA Freddy's Frozen Custard & Steakburgers \$1,000

- a) 2517 N Central Ave, Phoenix AZ: One employee was using a half face respirator, make, model, and serial number unknown, without having been provided a medical evaluation. 29 CFR 1910.134(e)(1)
Div. Proposal - \$0.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 1c –

- a) 2517 N Central Ave, Phoenix AZ: One employee was using a half face respirator brand, model and serial number unknown, without a fit test. 29 CFR 1910.134(f)(1)
Div. Proposal - \$0.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 2 –

- a) 2517 N Central Ave, Phoenix AZ: One employee was using a half-face respirator brand, model, and serial number unknown without a respiratory protection program. 29 CFR 1910.134(k)
Div. Proposal - \$3,315.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 3 –

- a) Production Area: Eleven employees were using a corrosive chemical that could cause severe eye damage without having an eye wash station within the working area. 29 CFR 1910.151(c)
Div. Proposal - \$3,315.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 4 –

- a) Tool Room: Eleven employees used a Ryobi brand Drill Press, model and serial number unknown, without having a guard over the point of operation.
b) Sand Blasting Room: Eleven employees used a Speedaire air compressor, model and serial number unknown, without having a guard covering the fan.
c) Tool Room: Eleven employees used a Ryobi Bench Sander, model and serial number unknown, without having a guard in place to prevent exposure to the unused portion of the belt. 29 CFR 1910.212(a)(1)
Div. Proposal - \$3,315.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 5a –

- a) 2517 North Central Avenue: Eleven employees were working under a hazard communication program that did not consist of a comprehensive list of hazardous chemicals. 29 CFR 1910.1200(e)(1)(i)
Div. Proposal - \$3,315.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 5b –

- a) 2517 North Central Avenue Phoenix AZ: Eleven employees were using hazardous chemicals in secondary containers that were not labeled to identify the hazards associated with the chemical as well as other requirements. 29 CFR 1910.1200(f)(6)
Div. Proposal - \$0.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 5c –

- a) 2517 North Central Avenue Phoenix AZ: Eleven employees were working with hazardous chemicals without having access to all of the safety data sheets. 29 CFR 1910.1200(g)(8)
 Div. Proposal - \$0.00 Formula Amt. - \$3,315.00

SERIOUS – Citation 1 - Item 6 –

- a) 2517 North Central Avenue Phoenix AZ: Eleven employees had access to and used hazardous chemicals in the workplace without initial training by the employer. 29 CFR 1910.1200(h)(1)
 Div. Proposal - \$3,315.00 Formula Amt. - \$3,315.00
 TOTAL PENALTY - \$19,890.00 TOTAL FORMULA AMT. - \$33,150.00

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

Chairman Schultz and Mr. Atencio discussed whether employees had computer access to the Safety Data Sheets (“SDS”).

Chairman Schultz commented on the effective grouping of the citations.

Commissioner LeMarr moved to approve the citation and proposed penalties in the amount of \$19,890 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.

The Soap Gal LLC
1720 W Broadway Rd
Mesa, AZ 85202

Site Location: 1720 W Broadway Rd
Mesa, AZ 85202
Inspection No: CP-2023-A 7717-0032
Inspection Date: November 18, 2022

Complaint
Years in Business: 5
Empl. Covered by Inspection: 50

SERIOUS – Citation 1 - Item 1 –

- a) East wall: An employee was working on a steel shelving unit while exposed to a 4' fall without a fall protection system in place. 29 CFR 1910.28(b)(1)(i)
 Div. Proposal - \$4,350.00 Formula Amt. - \$4,350.00
 TOTAL PENALTY - \$4,350.00 TOTAL FORMULA AMT. - \$4,350.00

Mr. Atencio noted this was a multi-employer complaint inspection including roof repairs. Mr. Atencio discussed ADOSH’s inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Commissioner LeMarr and Mr. Atencio discussed that the cut-off line for a violation is four feet.

Chairman Schultz noted that he was pleased to see, given the nature of the operation, there were no issues with the chemicals. Mr. Atencio noted the limited use of chemicals and chemicals were kept secure, and testing. Chairman Schultz noted from the photographs everything looked orderly and well maintained.

Chairman Schultz checked if Ms. Aragon would like to comment.

Ms. Aragon noted they came today because they do take safety very seriously in their factory and wants everyone to know that they did immediately take action on the racking. The weekend after Mr. Atencio's visit, the racks were moved down and took it a step further and also addressed the cord issue. The holding tanks were moved to the middle where the cords were coming down and actually moved the soapers against the wall so they are plugged directly into the outlets and the holding tanks in the middle, cleaned up the extension cord issue, and adjusted the racking at the same time to well under the four foot mark.

Chairman Schultz noted the excellent choice in their roofing company, they are one of partners in the Chairman's Roofers Alliance, roofing is a very high risk issue and affects the safety of others and they work hard to improve the industry as a whole with safety best practices.

Ms. Aragon noted they were wonderful and worked with them to help with the smell and the skylight installation.

Mr. Atencio confirmed the date on the inspection and the date the abatement was completed. He noted with the holidays he did not know that abatement was done that quickly, otherwise they would have qualified for the quick fix abatement.

Commissioner LeMarr moved to amend the citation and proposed penalties, because of the prompt abatement he suggested at 25% Good Faith Discount for a total of \$3,262.50. Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Chairman Schultz thanked The Soap Gal for joining the meeting and noted he was surprised to see the size of the business and it is terrific, providing a lot of jobs.

Mr. Couch noted Ms. Couch started in her 10 x 10 tack shed and now the company has grown to 4400 square feet and they are Arizona natives.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted he would like to update the Commissioners with the agency scorecard metrics for Accounting and ADOSH.

Mr. Ashley reviewed the two metrics for Accounting and fourteen for ADOSH teams.

Ms. Dimas confirmed Commission meeting dates through March 2023.

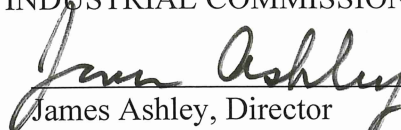
Public Comment.

There was no public comment.

Commissioner Everett moved to adjourn and Commissioner LeMarr 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 2:06 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary