# MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street Phoenix, Arizona 85007 Thursday, February 15, 2024 – 1:00 p.m.

Present: Dennis P. Kavanaugh

Joseph M. Hennelly, Jr. V

D. Alan Everett Maria Cecilia Valdez Chairman Vice Chair

Commissioner

Commissioner

Gaetano J. Testini

**Executive Deputy Director** 

Afshan Peimani

Chief Legal Counsel

Charles Carpenter

Legislative Affairs Chief/Public Information Officer

Renee Pastor

Self-Insurance (Telephonic)

Ruby Tate Sydney Standifird Claims Manager Claims Compliance

Andy Campbell

Chief Administrative Law Judge

Phil Murphy

ADOSH Interim Director ADOSH Compliance

Jonathon Wright Anna Maria Stonerock

ADOSH Admin

Kara Dimas

Commission Secretary

Chairman Kavanaugh convened the meeting at 1:02 p.m. In attendance, confirmed by roll call were Anne Ryman (ABC15); Paige Millan (Snell and Wilmer) Steven Coffin (Attorney for employer DBL LLC) (Pace·Selden·Gilman·Marks); Mario Ortiz, Johnny Smith and Micah Smith (Fire -N- Ice Heating and Air Conditioning, LLC). Also in attendance on the telephone, confirmed by roll call was Lisa Laird (Maricopa County Community College District).

## Approval of Minutes of February 8, 2024 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the February 8, 2024 regular session meeting and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez 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. <u>Approval of Requests for Renewal of Self-Insurance Authority</u>.
  - 1. Costco Wholesale Corporation
  - 2. Maricopa County Community College District

- b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.
  - 1. American Solar Electric, Inc. dba American Solar & Roofing
  - 2. Fastik Packaging Products, Inc.
  - 3. McKenna Construction Inc.

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

Discussion and Action regarding Appointment of Special Assistant to the Industrial Commission of Arizona.

## Sydney Standifird

Ms. Tate introduced Ms. Standifird and highlighted her background and experience. She requested a Resolution appointing Ms. Standifird as a Special Assistant with the Compliance Team.

Commissioner Valdez moved to appoint Ms. Standifird as Special Assistant and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action regarding Administrative Law Judge Appointment Dates.

As a record keeping item, Judge Campbell presented the Administrative Law Judges appointed by the Commissioners since 2020, and requested a resolution of such appointments.

Vice Chair Hennelly moved to appoint the Administrative Law Judges to their current position and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez 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 Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

DBL LLC

Fatality/Catastrophe

832 West 22nd Street

Years in Business:

17 6

Tempe, AZ 85282

22601 N 19th Ave

Empl. Covered by Inspection:

Site Location:

Phoenix, AZ 85027

Inspection No:

FC-2023-JR339-0015

Inspection Date:

August 8, 2023

Mr. Murphy summarized ADOSH's investigation and reviewed the file. ADOSH was not recommending a citation for DBL LLC.

Chairman Kavanaugh noted he did not have a request to speak.

The Commission took no action.

Fire -N- Ice Heating and Air Conditioning, LLC

Fatality/Catastrophe

3334 West Thomas Road

Years in Business:

15

Phoenix, AZ 85017

16220 N 7th St Building 47 Apt #1155

Empl. Covered by Inspection:

2

Site Location:

Phoenix, AZ 85022

Inspection No:

FC-2023-JW184-0031

Inspection Date:

September 22, 2023

## <u>SERIOUS</u> – Citation 1 - Item 1 –

a) Building Roof 47: Two employees were replacing a compressor on an HVAC unit while on the flat roof of a three-story apartment building approximately 32' above the ground, without a fall protection system in place. 29 CFR 1910.28(b)(1)(i)

Div. Proposal - \$3,349.00

Formula Amt. - \$3,349.00

#### SERIOUS – Citation 1 - Item 2 –

a) Building 47 Roof: Two employees were replacing a compressor on an HVAC unit while on the flat roof of a three-story apartment building approximately 34' above the ground, without having received adequate fall protection training. 29 CFR 1910.30(a)(1)

Div. Proposal - \$3,349.00

Formula Amt. - \$3,349.00

TOTAL PENALTY -\$6,698.00 TOTAL FORMULA AMT. -\$6,698.00

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

Vice Chair Hennelly noted the penalties described were adjusted significantly based on the size of the company from \$11,162.00 with a 70% reduction for size. He noted they are categorized as higher/lesser and asked if there was consideration for a greater classification.

Mr. Wright responded on the higher/lesser noting that the majority of the large roof was a flat roof and the likelihood of someone walking to the edge was very slim, however in this instance they did walk around the roof to look for missing rods that they needed. That is why it was lesser because of the probability of someone falling off a flat roof compared to a pitched roof is much lesser of a probability.

Vice Chair Hennelly thanked Mr. Wright and was just curious if it was considered and clearly it was.

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh noted he did not have a request to speak. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Universal White Cement Company, Inc.

5610 W Maryland Ave #R

Complaint

Years in Business:

Empl. Covered by Inspection:

30 25

Glendale, AZ 85301

Site Location:

5610 W Maryland Ave #R

Glendale, AZ 85301

Inspection No:

CP-2023-JR339-0019

Inspection Date:

August 15, 2023

#### <u>SERIOUS</u> – Citation 1 - Item 1 –

a) Alabaster shell crusher: One employee deposited alabaster from an elevated working platform into a crushing machine without a fall protection system in place. 29 CFR 1910.28(b)(1)(i)

Div. Proposal - \$6,697.00

Formula Amt. - \$6,697.00

#### <u>SERIOUS</u> – Citation 1 - Item 2 –

a) Silo: An employee accessed the top of a material silo to grease a motor without first having been trained on fall protection. 29 CFR 1910.30(a)(1)

Div. Proposal - \$6,697.00

Formula Amt. - \$6,697.00

#### SERIOUS – Citation 1 - Item 3 –

a) Alabaster crushing machine: One employee loaded alabaster into the crushing machine from atop the platform and was exposed to an unguarded chain and sprocket.

b) Pallet conveyor: One employee removed pallets of material from the pallet conveyor and was exposed to an unguarded chain and sprocket. 29 CFR 1910.219(f)(3)

Div. Proposal - \$6,697.00

Formula Amt. - \$6,697.00

TOTAL PENALTY - \$20,091.00

TOTAL FORMULA AMT. - \$20,091.00

Mr. Murphy discussed ADOSH's inspection, summarized the citation and proposed penalties.

Chairman Kavanaugh noted he did not have a request to speak.

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

#### Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through April 2024.

Mr. Testini noted last Friday he was a keynote speaker at Arizona Society of Human Resource Management Conference.

Mr. Testini noted tomorrow the interviews will be completed for the ADOSH Director.

Chairman Kavanaugh confirmed the next step in the interview process with the recommendation of a group of finalists for the Commissioners to interview.

# Public Comment.

There was no public comment.

The meeting was adjourned at 1:29 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By Gaetano J. Testini, Executive Deputy Director

ATTEST:

Kara Dimas, Commission Secretary