

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, July 11, 2024 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner
	Orion J. Godfrey	Commissioner
	Gaetano J. Testini	Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Sylvia Simpson	Chief Financial Officer
	Melissa Spurgeon	Labor Director
	Christina Sanchez	Labor Supervisor
	Brian Hudson	ADOSH Director
	Anna Maria Stonerock	ADOSH Admin
	Yvonne Borunda	Acting Commission Secretary
	Kara Dimas	Commission Secretary (Telephonic)

Chairman Kavanaugh convened the meeting at 1:01 p.m. In attendance, confirmed by roll call were Anne Ryman (ABC15); Geneva Haber (Snell and Wilmer); Arturo Garcia and Kurt Ceballes (Creative Environments); Lindsey Wheeler (Premier Risk Management). Also in attendance on the telephone, confirmed by roll call were Whitney Douglas (Keiwit); Hollie Mercurio (AMRRP) and Steve Huy (Marriott).

Approval of Minutes of June 27, 2024 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the June 27, 2024 regular session meeting and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey 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.

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a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2CNP2324-2699      Pinnacle Peak Cleaning Services, LLC    \$1,000

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

1. Arizona Municipal Risk Retention Pool
2. Kiewit Corporation
3. Marriott International, Inc.
4. Prudential Overall Supply, Inc.
5. Purcell Tire & Rubber Company
6. Southwest Gas Corporation

c. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.

1. CP-2024-AM866-0003    George Thomas McBride Sr dba McBride Paint and Wall Covering
2. CP-2024-EG419-0040    Yuma Regional Medical Center

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

Discussion and Action regarding Proposed Sick Time Subsequent Civil Penalty.

1. ST-2324-0319    V.I.P. Auto Body and Paint, Inc.

Ms. Spurgeon summarized the Labor Department's investigation into a violation of A.R.S. § 23-375(a), A.R.S. § 23-373(b) and A.R.S. § 23-375(c) for a prior Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon noted on October 14, 2023 the Labor Department assessed a civil penalty in the amount of \$250.00 for violating the same statutes, which was not paid by the employer and is currently in collections. On May 2, 2024 the Labor Department received another complaint against the employer for violation of A.R.S. § 23-372(b), A.R.S. § 23-364(d) and A.R.S. § 23-375(c). The employer is still not in compliance with the statutes. The Department recommended issuance of subsequent Civil Penalty of \$1,000.00 for violation of A.R.S. § 23-372(b), A.R.S. § 23-364(d) and A.R.S. § 23-375(c).

Commissioner Valdez moved to approve the issuance of a Subsequent Civil Penalty in the amount of \$1,000.00 to V.I.P. Auto Body and Paint, Inc. Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey 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.

Creative Environments Design & Landscape, Inc.  
8920 South Hardy Drive  
Tempe, AZ 85284

Referral  
Years in Business: 50  
Empl. Covered by Inspection: 4

Site Location: 6821 E Cactus Wren Rd  
Paradise Valley, AZ 85253  
Inspection No: RF-2024-AM866-0002  
Inspection Date: January 16, 2024

SERIOUS – Citation 1 - Item 1 –

- a) Azure Lot 19 Roof: Two employees were installing top caps (sheet of aluminum) on a residential rooftop at a height approximately 11 feet from the ground without a fall protection system installed. 29 CFR 1926.501(b)(1)  
Div. Proposal - \$14,063.00                      Formula Amt. - \$14,063.00

SERIOUS – Citation 1 - Item 2 –

- a) Azure Lot 19 - Roof: two employees were working on a Residential house, low slope roof that was 11 feet above the ground and the employees had not been trained on fall protection. 29 CFR 1926.503(a)(1)  
Div. Proposal - \$14,063.00                      Formula Amt. - \$14,063.00  
TOTAL PENALTY - \$28,126.00                      TOTAL FORMULA AMT. - \$28,126.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted that Mr. Garcia requested to speak.

Mr. Garcia, the Safety Manager for Creative Environments Design & Landscape, thanked the Commission for the opportunity to speak. The company has since implemented a fall protection plan throughout all of Creative Environments to avoid a similar incident in the future. Their fall protection plan and training informs the employees how to recognize fall hazards on job sites and what the safest procedure to follow to prevent falls. In addition, they are required to do a 16-hour fall protection training. Since his arrival at Creative Environments they have made huge progress in formalizing safety from onboarding training, documenting manuals, tests and quizzes, and constantly adding to the safety content. They are very remorseful that this incident happened and took someone getting injured to address not having a fall protection plan. They are fully committed and confident that an incident like this will not happen again, they do have some questions with the investigation and will reserve those for the formal or informal process, and intend to be fully compliant with ADOSH and the Commission.

Commissioner Valdez asked Mr. Garcia if all of the employees have been trained after the incident. Mr. Garcia confirmed.

Mr. Hudson noted there was a correction to the inspection date and should be February 2, 2024 in the report.

Commissioner Godfrey discussed with Mr. Hudson abatement and the comments from Mr. Garcia, he was not sure if they received photographs and documentation and would have to check the file.

Commissioner Godfrey noted with extenuating circumstances have been arrived at with the assumed abatement and training and implementation and sounds like a one-off scenario and not typically done and reacted appropriately. Commissioner Valdez agreed.



Commissioner Godfrey moved to amend the citation and proposed penalties. Because of the prompt attention to safety and correcting the protocol he suggested a 15% Quick Fix Discount for a total of \$23,907.00. Commissioner Valdez seconded the motion. Commissioner Kavanaugh commented that depending on the results of the informal conference, the division may have the desire to make a further adjustment. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Fleming Trailers, Inc.  
17033 N 63rd Ave  
Glendale, AZ 85308

Complaint  
Years in Business: 51  
Empl. Covered by Inspection: 10

Site Location: 17033 N 63rd Ave  
Glendale, AZ 85308  
Inspection No: CP-2024-AD245-0035  
Inspection Date: January 30, 2024

SERIOUS – Citation 1 - Item 1 –

- a) Welding Bay #3: One employee was exposed to an electric shock hazard while metal inert gas (MIG) welding trailers with a Lincoln Electric Idealarc machine, model# CV-250 IM505 and serial # U1960602591, that had damaged cable insulation that was not replaced.
- b) Welding Bay #3: One employee was exposed to an electric shock hazard while metal inert gas (MIG) welding trailers with a Miller Electric machine, model# XMT 350 CC.CV Auto-Line and serial # NA124157U, that had damaged cable insulation that was not replaced.
- c) Welding Bay #5: One employee was exposed to an electric shock hazard while metal inert gas (MIG) welding trailers with a Lincoln Electric Idealarc machine, model# CV-300 IM500 and serial # U1960712552, that had damaged cable insulation that was not replaced.
- d) Cutting Area: One employee was exposed to an electric shock hazard while metal inert gas (MIG) welding trailers with a Millermatic 251 machine, serial # unknown, that had damaged cable insulation that was not replaced.
- e) Cutting Area: One employee was exposed to an electric shock hazard while metal inert gas (MIG) welding trailers with a Millermatic 251 machine, serial # LC690773, that had damaged cable insulation that was not replaced.
- f) Cutting Area: One employee was exposed to an electric shock hazard while metal inert gas (MIG) welding trailers with a Miller Electric machine, model# XMT 350 CC.CV Auto-Line and serial # NB304044U, that had damaged cable insulation that was not replaced.
- g) Welding Bay #6: One employee was exposed to an electric shock hazard while metal inert gas (MIG) welding trailers with a Lincoln Electric Idealarc machine, model# CV-250 IM505 and serial # U1971016676, that had damaged cable insulation that was not replaced. 29 CFR 1910.254(d)(9)(iii)

Div. Proposal - \$6,250.00	Formula Amt. - \$6,250.00
TOTAL PENALTY - \$6,250.00	TOTAL FORMULA AMT. - \$6,250.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh did not have a request to speak.

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

Fleming Trailers, Inc.  
17033 N 63rd Ave  
Glendale, AZ 85308

Site Location: 17033 N 63rd Ave  
Glendale, AZ 85308  
Inspection No: CP-2024-TN976-0035  
Inspection Date: January 30, 2024

Complaint  
Years in Business: 51  
Empl. Covered by Inspection: 10

SERIOUS – Citation 1 - Item 1a –

- a) Spray Booth: One employee was required to wear a 3M tight fitting half mask respirator while using Sun/Steel #1412 GM White, without a Written Respiratory Protection Program having been implemented in the workplace. 29 CFR 1910.134(c)(1)  
Div. Proposal - \$2,678.00                      Formula Amt. - \$2,678.00

SERIOUS – Citation 1 - Item 1b –

- a) Spray Booth: One employee was required to wear a 3M tight fitting half mask respirator while using Sun/Steel #1412 GM White, without receiving a medical evaluation. 29 CFR 1910.134(c)(1)(ii)  
Div. Proposal - \$0.00                      Formula Amt. - \$2,678.00

SERIOUS – Citation 1 - Item 1c –

- a) Spray Booth: One employee was required to wear a 3M tight fitting half mask respirator while using Sun/Steel #1412 GM White, without receiving a fit test. 29 CFR 1910.134(c)(1)(iii)  
Div. Proposal - \$0.00                      Formula Amt. - \$2,678.00

SERIOUS – Citation 1 - Item 1d –

- a) Spray Booth: One employee was required to wear a 3M tight fitting half mask respirator while using Sun/Steel #1412 GM White, without received respiratory training. 29 CFR 1910.134(k)  
Div. Proposal - \$0.00                      Formula Amt. - \$2,678.00

SERIOUS – Citation 1 - Item 2 –

- a) Outside Bay 4: One employee was required to use oxygen and compressed gas cylinders that were stored together. 29 CFR 1910.253(b)(4)(iii)  
Div. Proposal - \$3,572.00                      Formula Amt. - \$3,572.00

SERIOUS – Citation 1 - Item 3a –

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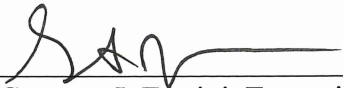
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There was no public comment.

The meeting was adjourned at 1:40 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
Gaetano J. Testini, Executive Deputy Director

ATTEST:

  
Kara Dimas, Commission Secretary