## MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street Phoenix, Arizona 85007 Thursday, July 18, 2024 - 1:00 p.m.

Present: Dennis P. Kavanaugh

Chairman

Joseph M. Hennelly, Jr.

Vice Chair (Telephonic)

D. Alan Everett

Commissioner

Maria Cecilia Valdez Orion J. Godfrey

Commissioner

Commissioner

Gaetano J. Testini

Director

Afshan Peimani

Chief Legal Counsel.

Lisa Padgett Renee Pastor Deputy Director (Telephonic) Self-Insurance (Telephonic)

Brian Hudson

**ADOSH Director** 

Taryn North

Compliance Supervisor

Tom Martz

Compliance **ADOSH Admin** 

Bethany Votta Anna Maria Stonerock

**Acting Commission Secretary** 

Kara Dimas

Commission Secretary (Telephonic)

Chairman Kavanaugh convened the meeting at 1:07 p.m. In attendance, confirmed by roll call were Anne Ryman (ABC15); Geneva Haber (Snell and Wilmer); Martin Moon (Picacho Safety); Lorenzo M. Alvarado (Alvarado Roofing LLC); Tyler Thomas (Snell and Wilmer representing Alvarado Roofing LLC); Karen Mittleider and Karen Briski (Goodrich Corporation DBA Collins Aerospace); Kevin Thomson (Lyons Roofing); Randy Lundsford, Joshua Frasier, Jim Blasius and Martin Aguirre (In-Cide Technologies, Inc.); Eda Borolli (PSGM Low MSR); Lindsey Wheeler (PRM). Also in attendance on the telephone, confirmed by roll call was Rachel Schmidt (Ceiba Adventures, Inc).

# Approval of Minutes of July 11, 2024 Regular Meeting Minutes.

Commissioner Godfrey moved to approve the Minutes of the July 11, 2024 regular session meeting and Commissioner Valdez 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 removes an item off 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. Dole Food Company, Inc.
- 2. HonorHealth
- 3. Trademark Construction Co., Inc.
- b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.
  - 1. UR-2024-TN976-0036

Abbott Laboratories dba Abbott Nutrition

2. CP-2024-TN976-0032

Arizona Interiors & Millwork, Inc

3. CP-2024-AD245-0027

Ceiba Adventures, Inc

4. RF-2024-JW184-0059

MiTek (USA) Inc. (FN)

Commissioner Valdez moved to approve the items on the Consent Agenda and 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.

Alvarado Roofing, LLC

3395 East Felix Boulevard

Fatality/Catastrophe

Years in Business:

Empl. Covered by Inspection:

14 4

Tucson, AZ 85706

10560 S Sage Hills Court

Vail, AZ 85641

Inspection No:

Site Location:

FC-2024-RS480-0113

Inspection Date:

January 24, 2024

### SERIOUS – Citation 1 - Item 1 –

a) 10560 S Sage Hills Ct, Vail: Four employees were installing plywood and underlayment on a roof that was 9'5" utilizing a safety monitor in which their attention was divided as they were tasked with replacing plywood. 29 CFR 1926.502(h)(1)(v) \* Per ADOSH Director as causal factor

Div. Proposal - \$11,162.00

Formula Amt. - \$11,162.00

## SERIOUS – Citation 1 - Item 2 –

a) 10560 S Sage Hills Ct, Vail: Four employees were installing underlayment approximately 9'5" from the lower lever and were not in constant sight of the safety monitor. 29 CFR 1926.502(h)(1)(iii)

Div. Proposal - \$4,688.00

Formula Amt. - \$4,688.00

SERIOUS – Citation 1 - Item 3 –

a) 10560 S Sage Hills Ct, Vail: One employee was installing plywood and underlayment on a roof that was 9'5" and did not have fall protection training. 29 CFR 1926.503(a)(1) Div. Proposal - \$3,349.00 Formula Amt. - \$3,349.00

### **NON-SERIOUS**

- 1) 29 CFR 1926.503(b)(1): The employer did not verify compliance with paragraph (a) of this section by preparing a written (training) certification record including the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the employer.
  - a) 10560 S Sage Hills Ct, Vail: Three employees was installing plywood and underlayment on a roof and did not have written certification record of training.
- 2) 29 CFR 1904.39(a)(1): The employer did not report within 8-hours the death of an employee resulting from a work-related incident
  - a) 3395 E Felix Boulevard: One employee fell to his death on January 19th, 2024 and it was not reported until January 22nd, 2024.

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$20,199.00

TOTAL FORMULA AMT. - \$20,199.00

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

Chairman Kavanaugh confirmed the corrected amount of the penalty with Mr. Hudson.

Chairman Kavanaugh noted he had a request to speak from Tyler Thomas.

Mr. Thomas wanted to point out a few things that concerned them while considering this citation. On May 30, 2024 a closing conference was held in this matter with the Compliance Officer, during that closing conference they were informed there would be three citations issued: one for failure to report, one for a fall protection standard violation for CFR 29 1926.501(b)(13) and one for an unprotected hole violation for 1926.501(b)(4)(i). They were surprised today to find there are two additional citations. He also clarified that they discussed with the Compliance Officer this violation was abated shortly after the incident in conjunction with legal counsel, Mr. Alvarado finished fixing the roof in a safe manner that hazard no longer exists.

Chairman Kavanaugh expressed concern that since the file is at the six months' time limit, he would suggest to approve the division's recommendation and have ongoing conferences and discussions with the employer to address the issue.

Commissioner Godfrey asked if Mr. Hudson was familiar with the abatement of the violations. Mr. Hudson noted he did not have documentation at this point.

Commissioner Everett clarified that the Commission could take action and they will have the opportunity to review. Mr. Hudson agreed and noted he could have a second closing conference at that time.

Commissioner Everett moved to approve the citation and proposed penalties as presented and have a second closing conference and Commissioner Godfrey seconded the motion. Chairman

Kavanaugh noted it is always a challenge when we run up on the six-month time period and knows Mr. Hudson is working hard to speed the process up. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Canopy Roofing, LLC

878 W Illini St

Fatality/Catastrophe

Years in Business:

Empl. Covered by Inspection:

30 3

Phoenix, AZ 85041

5441 W Hadley St

Phoenix, AZ 85043

Inspection No:

Site Location:

FC-2024-TM082-0024

Inspection Date:

January 22, 2024

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

a) South Warehouse: Two employees conducting roofing activities 45 feet above a lower level without fall protection. 29 CFR 1926.501(b)(10)

Div. Proposal - \$10,938.00

Formula Amt. - \$10,938.00

### SERIOUS – Citation 1 - Item 2 –

a) South Warehouse: Two employees were working 45' above a lower level on a roof which contained four unguarded skylights covered by hardened polyurethane, that did not have the structural integrity to support the employees safely without the use of fall protection. 29 CFR 1926.502(i)(2)

Div. Proposal - \$10,938.00

Formula Amt. - \$10,938.00

### SERIOUS – Citation 1 - Item 3 –

a) South Warehouse: Two employees were working 45' above a lower level on a roof which contained four unguarded skylights covered by hardened polyurethane, that were not marked with the word "HOLE" or "COVER". 29 CFR 1926.502(i)(4)

Div. Proposal - \$10,938.00

Formula Amt. - \$10,938.00

TOTAL PENALTY - \$32,814.00

TOTAL FORMULA AMT. - \$32,814.00

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

Commissioner Godfrey and Mr. Hudson discussed if there was any pertinence to the statement about number of union employees and non-union employees.

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

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and 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.

Goodrich Corporation DBA Collins Aerospace

Fatality/Catastrophe

3414 South 5th Street

Years in Business:

37

Phoenix, AZ 85040

Empl. Covered by Inspection:

254

Site Location:

3414 South 5th Street

Phoenix, AZ 85040

Inspection No:

FC-2024-MS021-0004

Inspection Date:

March 6, 2024

Mr. Hudson summarized ADOSH's investigation and reviewed the file. ADOSH was not recommending a citation for Goodrich Corporation DBA Collins Aerospace.

Chairman Kavanaugh checked if anyone would like to comment.

Chairman Kavanaugh checked if anyone else on the phone would like to comment. There was no comment.

The Commission took no action.

In-Cide Technologies, Inc.

Complaint

50 N 41st Ave

Years in Business:

Empl. Covered by Inspection:

51 8

Phoenix, AZ 85009

50 N 41st Ave

Phoenix, AZ 85009

Inspection No:

Site Location:

CP-2024-TM082-0026

Inspection Date:

January 26, 2024

#### SERIOUS – Citation 1 - Item 1 –

a) Production and Storage areas: Two employees were exposed to Boric Acid residue (Category 1B for reproductive toxicity), and a hazard assessment had not been conducted to identify the proper personal protective equipment required for employee use. 29 CFR 1910.132(d)(2)

Div. Proposal - \$7,813.00

Formula Amt. - \$7,813.00

### SERIOUS – Citation 1 - Item 2 –

a) Pouring area: Employees who operated the Nissan brand forklift, model 60 and serial number E728243, had not been provided training by the employer that was certified. 29 CFR 1910.178(l)(1)(ii)

Div. Proposal - \$7,813.00

Formula Amt. - \$7,813.00

TOTAL PENALTY - \$15,626.00

TOTAL FORMULA AMT. - \$15,626.00

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

Chairman Kavanaugh noted he had a request to speak from Martin Aguirre.

Mr. Aguirre, part of the safety team, commented that the complaint came from a disgruntled employee that caused this visit and they have not had much interaction with ADOSH inspectors, and this is very new them. They want to come and make sure they understand and maybe there was a miscommunication with part of their safety or management to provide some of this information. They think the penalty is high, they also have not had any issues and no problems with the employees and have a voluntary use of respirators because the Safety Data Sheet does not require anything other than washing your hands after handling it and make sure you do not ingest it. They have dust

collectors in the building, so it is not necessary, some employees request it and they give them what they need for PPE, there is always room for improvement and they are working on it. They wished they had a follow up on the inspection, they got a couple of requests for information and did not hear anything for six months until they got the citation on July 12<sup>th</sup> and now they have a citation, two serious and one non-serious. They are a firm believer in safety information and make sure they stay in business and keep their employees healthy, most of the employees have been with them for over 10 years and want to make sure that they continue working for them and the best way they can is they want to return to them every day. He would like to ask for a minimum reduction of the citations.

Commissioner Valdez confirmed with Mr. Aguirre that all employees have been trained at orientation and they are thorough in making sure employees understand.

Commissioner Godfrey confirmed with Mr. Aguirre that for the boric acid, it is up to the employee's discretion for PPE. Mr. Aguirre noted they have the safety data sheet and it does not require a respirator to be used, so they do not require it, it is voluntary.

Commissioner Godfrey and Mr. Hudson discussed the optional use for the employees to use the respirator and the citation stated that a hazard assessment had not been conducted to identify the proper personal protective equipment, they were able to cite the plan and the SDS Sheets and the CFR discussing respirators, is there something in addition. Mr. Hudson noted there are certain elements when you have a voluntary respiration protection program and employers have to meet those particular elements in acknowledging and informing the employees of potential hazards, then the employee basically sign acknowledgment that this is voluntary process and the elements that go into it. Mr. Aguirre explained their process. Mr. Hudson discussed with the Compliance Officer who noted that no medical evaluation had been done before the N95 Respirators, however the citation does read the employer shall verify, it does require workplace hazard assessment has been performed through a certification. It also requires the person certifies the evaluation has been preformed as an assessment and documented. The citation was issued for two employees' exposure to boric acid residue, a hazard assessment had not been conducted to identify the proper personal protection equipment required for employees. The citation is not for the respirator.

Commissioner Godfrey moved to approve the citation and proposed penalties based on the statements and follow-up clarification as presented and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh noted that any further issues can be discussed at an informal conference process. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

ME Global Inc. dba ME Elecmetal

5857 S Kyrene Rd

Tempe, AZ 85282

Site Location:

5857 S Kyrene Rd

Tempe, AZ 8528

Inspection No:

CP-2024-TM082-0022

Inspection Date:

January 18, 2024

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

Complaint

Years in Business:

106

Empl. Covered by Inspection:

5

a) Outdoor Loading Dock: Three employees exposed to unprotected edge of loading dock that has a vertical wall 49 inches above a lower walking/working surface. 29 CFR 1910.28(b)(1)(i)

Div. Proposal - \$6,026.00

Formula Amt. - \$6,026.00

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

a) Outdoor Loading Dock: One employee was required to enter an permit required confined space when repairing a loading dock plate, that had not been evaluated as a permit-required confined space. 29 CFR 1910.146(c)(1)

Div. Proposal - \$10,046.00

Formula Amt. - \$10,046.00

TOTAL PENALTY - \$16,072.00

TOTAL FORMULA AMT. - \$16,072.00

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

Chairman Kavanaugh did not have a request to speak.

Commissioner Valdez 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.

MSR-FSR LLC

Complaint

280 North Roosevelt Ave #1

Years in Business:

27 7

Chandler, AZ 85226

280 North Roosevelt Ave #1

Empl. Covered by Inspection:

Site Location:

C1 11 A 7 0500 (

Chandler, AZ 85226

Inspection No:

CP-2024-AM866-0006

Inspection Date:

January 29, 2024

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

a) Non-Copper 1000 Area: A sprinkler head installed in a corrosive environment is not kept free of corrosion. 29 CFR 1910.164(d)(1)

Div. Proposal - \$7,813.00

Formula Amt. - \$7,813.00

## SERIOUS – Citation 1 - Item 2 –

a) Non-Copper 1000 Area - Dip/SIC Tanks: Employees are exposed to fire hazards while working Dip/SIC Tanks Area due to Electrical breaker corroded and is not kept free of corrosion. 29 CFR 1910.303(b)(7)(iv)

Div. Proposal - \$7,813.00

Formula Amt. - \$7,813.00

TOTAL PENALTY - \$15,626.00

TOTAL FORMULA AMT. - \$15,626.00

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 Godfry seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly,

Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Synergy Holdings, Inc.

Complaint

630 E 18th Pl

Years in Business:

20

Yuma, AZ 85364

Empl. Covered by Inspection:

6

Site Location:

630 E 18th Pl

Yuma, AZ 85364

Inspection No:

CP-2024-EG419-0045

Inspection Date:

January 18, 2024

### SERIOUS – Citation 1 - Item 1 –

a) 630 E 18th Pl Yuma: Employees were required to use Ardex EP 2000 hardener Part B without an eyewash station to flush out the eyes. 29 CFR 1926.50(g)

Div. Proposal - \$6,250.00

Formula Amt. - \$6,250.00

### SERIOUS – Citation 1 - Item 2a –

a) 630 E 18th Pl Yuma: An employee was required to use a caterpillar forklift with an elongated attachment without prior written approval from the manufacturer on model GP25N and serial number AT35A09225. 29 CFR 1910.178(a)(4)

Div. Proposal - \$4,687.00

Formula Amt. - \$4,687.00

### SERIOUS – Citation 1 - Item 2b –

a) 630 E 18th Pl Yuma: An employee was required to use a caterpillar forklift without an amended load chart for the new front end elongated attachment on forklift model GP25N and serial number AT35A09225. 29 CFR 1910.178(a)(5)

Div. Proposal - \$0.00

Formula Amt. - \$4,687.00

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

a) 630 E 18th Pl Yuma: An employee was required to use a caterpillar forklift without training on the load capacities on a front end elongated attachment on forklift model GP25N and serial number AT35A09225. 29 CFR 1910.178(l)(3)(ii)(B)

Div. Proposal - \$0.00

Formula Amt. - \$4,687.00

## <u>SERIOUS</u> – Citation 1 - Item 3 –

a) MK7 EZ Cut Machine: An employee was exposed to an unguarded blade moving front to back on the MK7 EZ Cut machine while cutting rug to specified order requirements. 29 CFR 1910.212(a)(1)

Div. Proposal - \$7,813.00

Formula Amt. - \$7,813.00

### SERIOUS – Citation 1 - Item 4 –

 a) 630 E 18th Pl Yuma: Two employees had been required to work with chemicals such as Ardex EP 2000 Hardener without receiving hazardous communication program training. 29 CFR 1910.1200(h)(1) Formula Amt. - \$6,250.00 TOTAL FORMULA AMT. - \$34,374.00

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

Chairman Kavanaugh did not have a request to speak.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and 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.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Chairman Kavanaugh noted the annual FAME Report from Federal OSHA came out earlier this month and asked for a briefing for the Commissioners. Mr. Hudson provided a history of the FAME and the results of the audit that Federal OSHA does for all state plans for 2023. The biggest change was the file management system moving from OIS to Sales Force. Mr. Testini noted the intake team was proactively created in response to the FAME.

Ms. Stonerock confirmed Commission meeting dates through August 2024.

### Public Comment.

ATTEST:

There was no public comment.

The meeting was adjourned at 2:15 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

Gaetano J. Testini, Executive Deputy Director

By

Kara Dimas, Commission Secretary