

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, April 19, 2018 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Steven J. Krenzel	Commissioner
	James Ashley	Director
	Stacey Rogan	Assistant Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Gregg Morgan	Assistant Claims Manager
	Jessie Atencio	ADOSH Interim Director
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Steve Hartson with Hexcel Corporation; Michael Taylor with Sapa Extrusions North American, LLC; and Aaron Adamson with Cardinal CG Company (telephonic).

Approval of Minutes of March 29, 2018 Regular Meeting Minutes and April 5, 2018 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the March 29, 2018 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr voted in favor of the motion. Commissioner Krenzel abstained. The motion passed.

Commissioner LeMarr moved to approve the Minutes of the April 5, 2018 regular session meeting and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. Vice Chair Hennelly abstained. 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 Civil Penalties Against Uninsured Employers.
1. 2CNP17/18-0082 – Desert Floors Interiors & Granite Fabrication, Inc.
  2. 2CRP17/18-0047 – DNA Roofing LLC

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

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

Mr. Morgan discussed Elisa Molina's employment history and recommended that she be appointed as Special Assistant to the Commission.

Commissioner LeMarr and Mr. Morgan discussed Ms. Molina's position and the effort to cross train in the Claims Division.

Commissioner LeMarr moved to appoint Ms. Molina as Special Assistant to the Industrial Commission of Arizona and Commissioner Krenznel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Krenznel voted in favor of the motion. The motion passed.

Discussion and/or Action regarding Delegation of Authority to Claims Manager Ruby Tate to modify Commission forms and approve form alterations.

Ms. Rogan discussed the need for Ms. Tate to be able to make changes to Commission forms and make decisions on requests from stakeholders to alter Commission forms. She noted that the proposed resolution would not permit Ms. Tate to deviate from form requirements in statute or administrative rule.

Commissioner Krenznel moved to authorize Ms. Tate to make changes to Commission forms and make decisions on requests from stakeholders to modify Commission forms. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Krenznel 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 and process for the Commission's consideration of ADOSH citations and proposed penalties.

Sapa Extrusions North America, LLC  
249 S 51<sup>st</sup> Ave  
Phoenix, AZ 85043

Fatality/Accident  
Years in Business: 50  
Emp. Covered by inspection: 18

Site Location: 249 S 51st Ave  
Phoenix, AZ 85043  
Inspection No: U9805 - 1276496  
Inspection Date: 11/08/2017

SERIOUS – Citation 1 - Item 1 –

a) Casting Pit Area: One employee fell approximately 22 feet into an unguarded pit. 29 CFR 1910.22(c)

Div. Proposal - \$7,000.00	Formula Amt. - \$5,000.00
TOTAL PENALTY - \$7,000.00	TOTAL FORMULA AMT. - \$5,000.00

Mr. Atencio summarized ADOSH's fatality investigation, summarized the citation and proposed penalty, and discussed the photographs.

Commissioner LeMarr and Mr. Atencio discussed circumstances of the employee's fall and the manner of notification to ADOSH.

Commissioner LeMarr and Mr. Atencio discussed the employer's abatement efforts and explained how the equipment was being used.

Commissioner Krenzel and Mr. Atencio discussed the use of the fall protection table depicted in Photograph 5.

Commissioner LeMarr and Mr. Atencio discussed the operation of the crane.

Chairman Schultz and Mr. Atencio discussed whether the company performs the subject activity at other locations.

Chairman Schultz, Mr. Atencio, and Commissioner LeMarr discussed the extensive abatement efforts of the company and usage of the new equipment.

Mr. Ashley and Mr. Atencio discussed the mandatory reporting requirement for serious injuries and fatalities.

Vice Chair Hennelly and Mr. Atencio discussed the company's quick and extensive abatement efforts.

Mr. Taylor described the incident and rescue efforts. Chairman Schultz and Mr. Taylor discussed the quick timeframe for completing abatement and the nature of the abatement efforts.

Commissioner LeMarr, Vice Chair Hennelly, and Mr. Atencio discussed the penalty calculation and the absence of reduction factors.

Commissioner LeMarr and Mr. Atencio clarified that the mention of "no abatement" in the Commission report was a typographical error.

Based on the prompt and extensive nature of the company's abatement efforts, Commissioner Krenzel moved to reduce the proposed penalty for Citation 1, Item 1 by 25%, from \$7,000.00 to \$5,250.00. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.

United Comb & Novelty Corporation dba United Solutions Complaint

33 Patriot Cir

Leominster, MA 01453

Years in Business: 98

Empl. Covered by inspection: 48

Site Location: 1300 N Fiesta Blvd  
Gilbert, AZ 85233

Inspection No: H9685 - 1275239

Inspection Date: 11/02/2017

SERIOUS – Citation 1 - Item 1a –

a) Mold Storage Area: A Caterpillar powered industrial truck, model T1500 and serial number 5M801731, was used with Verstil attachment without the manufacturer's prior written approval. 29 CFR 1910.178(a)(4)

b) CNC Machine Area: A Yale powered industrial truck, model ERP040VFN48TE084 and serial number A955N03265R, was used with a Uline front-end attachment without the manufacturer's prior written approval. 29 CFR 1910.178(a)(4)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1 - Item 1b –

a) Mold Storage Area: A Caterpillar powered industrial truck, model T1500 and serial number 5M801731, was left unattended and the load engaging means were not fully lowered. 29 CFR 1910.178(m)(5)(i)

Div. Proposal - \$0.00

Formula Amt. - \$1,350.00

SERIOUS – Citation 1 - Item 1c –

a) Mold Area: A Caterpillar powered industrial truck, model T1500 and serial number 5M801731, had excessive wear and damage to the rear tires. 29 CFR 1910.178(p)(1)

Div. Proposal - \$0.00

Formula Amt. - \$1,350.00

SERIOUS – Citation 1 - Item 2 –

a) North Shop: Guarding was not provided on the take up portion of the conveyor belt where there were ingoing nip points. 29 CFR 1910.212(a)(1)

Div. Proposal - \$1,620.00

Formula Amt. - \$1,620.00

SERIOUS – Citation 1 - Item 3 –

a) Maintenance Shop: Employees used a Baldor bench grinder, model 8100WD and serial number X0610057024, without a work rest. 29 CFR 1910.215(a)(4)

Div. Proposal - \$100.00

Formula Amt. - \$1,350.00

TOTAL PENALTY - \$3,970.00

TOTAL FORMULA AMT. - \$7,920.00

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

Commissioner LeMarr commended ADOSH on the thorough report and grouping of violations. He moved to approve the citation and proposed penalties as presented. Vice Chair Hennelly seconded the motion and echoed Commissioner LeMarr's comments.

Chairman Schultz and Mr. Atencio discussed the Compliance Officer assigned to the investigation.

Commissioner Krenzel also commended ADOSH on the report, specifically noting the abatement information provided.

Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.



Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalty, described the subject manufacturing process, and discussed the photographs.

Commissioner Krenzel, Mr. Hartson, and Mr. Atencio discussed whether the company had modified the machine guarding, the company's abatement efforts, the nature of the subject injury, the decision to lock out the subject equipment until abatement was completed, and the company's safety stand down and retraining effort.

Mr. Hartson discussed the inexperience of the subject employee. Chairman Schultz noted a connection between injury rates and inexperienced employees.

Chairman Schultz and Mr. Hartson discussed the operation of the machine, method for cleaning the machine, and training efforts.

Based upon the company's abatement efforts, Commissioner LeMarr moved to reduce the proposed penalty for Citation 1, Item 1 by 25%, from \$5,000.00 to \$3,750.00. Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Chairman Schultz commended ADOSH for their excellent work.

Commissioner LeMarr and Mr. Atencio discussed ADOSH's approach to conducting inspections out of the Phoenix area. Mr. Atencio noted manufacturing development in Casa Grande and ADOSH efforts to partner with employers to improve workplace safety. He noted that Cardinal CG Company has some VPP locations.

Mr. Hartson noted that Hexcel is considering adopting a new ISO safety standard.

Mr. Ashley noted that he is contemplating a Commission trip to Casa Grande in June.

Chairman Schultz strongly encouraged Mr. Hartson to consider ADOSH's VPP program.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2018. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

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Mr. Ashley congratulated Chairman Schultz and Vice Chair Hennelly on their unanimous confirmation by the Arizona Senate to an additional term on the Commission.

Mr. Ashley provided an update regarding the agency's participation rate in the Employee Engagement Survey.

Mr. Ashley provided a report regarding the ICA Day at the Capitol event. Chairman Schultz noted the participation in the event demonstrates that the Commission is seeing success from its outreach efforts. Mr. Ashley noted that Representative David Livingston was very appreciative for the Commission's recognition.

Mr. Ashley provided an update on the Commission's participation in the State Employee Charitable Campaign. He noted that a \$250.00 donation was made to the Arizona Human Society, the charity selected by Commission employees.

Mr. Ashley announced the next Benchmark AMS Visit that will take place on April 25 with representatives of APS. Chairman Schultz mentioned that he would thank APS for their participation.

Mr. Ashley discussed a new effort to hold meet and greets for new employees.

Mr. Ashley provided an update regarding legislative measures impacting the Commission, including the status of House Concurrent Resolution 2028 related to the retaliation provision in Proposition 206. Chairman Schultz, Mr. Ashley, and Mr. Laky discussed the projected end of the legislative term.

Mr. Ashley reminded the Commissioners about the Commission's VPP banner signing event on May 3, 2017, following the Commission Meeting.

Mr. Atencio provided an update regarding his participation in the VPPPA Conference in February 2017, including his presentations regarding the ADOSH program, AMS, and VPP. He noted 125 people from Arizona attended and next Conference it will be held in Tucson. He highlighted the list of companies that are interested or in the process of obtaining VPP status.

Chairman Schultz and Mr. Atencio discussed the mentorship aspect of the VPP program and efforts to improve the Commission's website so that information is readily accessible to companies. Mr. Atencio noted Arizona is leading in the growth of VPP.

Commissioner LeMarr and Mr. Atencio discussed ADOSH's focus of the growth of the SHARP program and the SHARP/VPP alliance.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through June 2018. Mr. Ashley noted that he will be looking at dates in June for a Commission trip to Casa Grande.

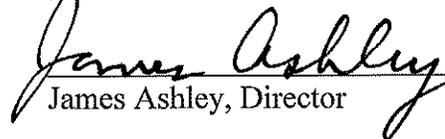
Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Vice Chair Hennelly and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:26 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:

  
Kara Dimas, Commission Secretary