

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, April 9, 2020 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman (Telephonic)
	Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
	Scott P. LeMarr	Commissioner (Telephonic)
	Steven J. Krenzel	Commissioner (Telephonic)
	James Ashley	Director (Telephonic)
	Gaetano Testini	Chief Legal Counsel (Telephonic)
	Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
	Renee Pastor	Self Insurance (Telephonic)
	Lisa Padgett	Labor Director (Telephonic)
	Victoria Kamm	Labor Supervisor (Telephonic)
	Jessie Atencio	ADOSH Director (Telephonic)
	Christian Teudan	ADOSH Compliance Officer (Telephonic)
	Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were Sandy Chavez, Brittney Chavez and Alicia Ozta (family members of Robert Chavez (deceased)); Shanlie Blair (Snell & Wilmer).

Approval of Minutes of March 26, 2020 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the March 26, 2020 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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 Civil Penalties Against Uninsured Employers.

1. 2CNP19/20-0314 Adolfo Mancillias dba Julioberto's Mexican Food - \$1,000
2. 2CNP19/20-0398 Sir Moves Alot LLC - \$5,000
3. 2CSP19/20-0120 Tommy's BCH LLC dba True Grit Tavern - \$5,000
4. 2CMO19/20-0046 Robert Vaughn dba H & R Moves You - \$5,000

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

1. Honeywell International, Inc.

Vice Chair Hennelly moved to approve the Consent Agenda as presented and Commissioner LeMarr 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 Proposed Youth Employment Penalty.

CL-1819-0292 Sofrita LLC

Ms. Padgett summarized the Labor Department's investigation, which included findings of violations of A.R.S. §§ 23-232(a)(8)(b) and 23-233. Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of \$1,000.00.

Commissioner Krenznel moved to approve issuance of a Civil Penalty in the amount of \$1,000.00 to Sofrita LLC. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

Discussion and Action of Attorney Fee Petition. This agenda item may include discussion concerning the processing of attorney fee petition and the reasonable hourly rates used in analyzing fee petition.

Weston Montrose / Edd – Mr. Testini discussed the history of this matter and the work performed and his analysis of the Petition for Attorney Fees submitted by Mr. Montrose and his representation of Mr. Edd. Since Mr. Edd was already paid benefits and the claim is now closed with no remaining temporary benefits owed or permanent benefits being awarded, the Commission cannot direct Special Fund to withhold and remit payments to Petitioner Montrose from any existing award. However, there is a possibility that the claim is subsequently reopened at some point in the future with a new award of benefits. In this case, the Special Fund could direct portions of those future benefit payments to Petitioner Montrose. Thus, it is recommended that Petitioner Montrose be awarded attorney fees in the sum of \$3,442.67 to be paid from any future award to which Applicant may become entitled at a rate of 25% of each benefit payment until the amount of \$3,442.67 is paid or until ten years from the date of the award, whichever occurs first. This recommendation complies with the statutory requirements set forth in A.R.S. § 23-1069. Mr. Testini requested that the Commissioners allow for electronic signatures on the Findings and Award.

Commissioner LeMarr and Mr. Testini discussed that there was no other representation of Mr. Edd in this matter.

Chairman Schultz and Mr. Testini discussed that payment be assessed only if the claim is reopened until the amount is fully recovered or 10 years have elapsed from the date of the Award of benefits.

Vice Chair Hennelly moved to approve staff's recommendation and allow electronic signatures. Commissioner Krenznel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

SERIOUS – Citation 1 - Item 6 –

- a) 2109 W Monte Vista Rd, Phoenix, AZ 85009: A written hazard communication training was not provided to thirteen drivers who transported gasoline and other fuel burning material. 29 CFR 1910.1200(h)(3)(iii)
- | | |
|----------------------------|---------------------------------|
| Div. Proposal - \$1,000.00 | Formula Amt. - \$1,000.00 |
| TOTAL PENALTY - \$8,000.00 | TOTAL FORMULA AMT. - \$8,000.00 |

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

Chairman Schultz commented that the pictures are horrific, and demonstrated an incredible explosion, and he was surprised the compartmentalization seems to work well for containing it.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner Krenzel moved to approve the citation and proposed penalty as presented and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Community Bridges, Inc. 675 E Cottonwood Ln. Casa Grande, AZ 85122	Complaint Years in Business: 37 Empl. Covered by Inspection: 24
Site Location: 675 E Cottonwood Ln. Casa Grande, AZ 85122	
Inspection No: R3180 -1439179	
Inspection Date: 10/21/2019	

Mr. Atencio removed this item from the agenda for further review with the compliance officer.

Chairman Schultz and Mr. Atencio discussed if there was a time deadline for this item and it will be scheduled for the April 16, 2020 meeting.

T & K Feeds, Inc. 42330 W Hwy 84 Stanfield, AZ 85172	Referral Years in Business: 24 Empl. Covered by Inspection: 9
Site Location: 42330 W Hwy 84 Stanfield, AZ 85172	
Inspection No: E7721 - 1438338	
Inspection Date: 10/16/2019	

SERIOUS – Citation 1 - Item 1 –

- a) 42330 W Highway 84, Stanfield, Arizona: An in-patient hospitalization of an employee was not reported within 24 hours. 29 CFR 1904.39(a)(2)
- | | |
|----------------------------|---------------------------|
| Div. Proposal - \$1,000.00 | Formula Amt. - \$1,000.00 |
|----------------------------|---------------------------|

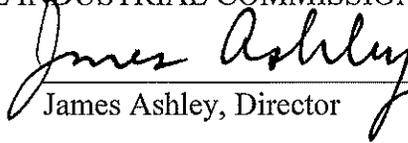
Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn 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 2:12 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary