MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, August 16, 2018 – 1:00 p.m.

Present: Dale L. Schultz
         Joseph M. Hennelly, Jr.
         Scott P. LeMarr
         Steven J. Krenzel
         James Ashley
         Stacey Rogan
         Trevor Laky
         Renee Pastor
         Jessie Atencio
         Stephen Ball
         Kara Dimas

Chairman
Vice Chair
Commissioner
Commissioner (Telephonic)
Director
Assistant Chief Legal Counsel
Legislative Affairs Chief / Public Information Officer
Self Insurance
ADOSH Interim Director
Staff Attorney
Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Heather Pacheco
delaCruz; Michael Fassett with Snell & Wilmer; and Arthur Dehon and Elizabeth Dehon with Arrow
Roofing Inc.

Approval of Minutes of July 26, 2018 and August 10, 2018 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the July 26, 2018 regular session meeting
and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly and
Commissioner Krenzel voted in favor of the motion. The motion passed. Commissioner LeMarr
abstained.

Commissioner LeMarr moved to approve the Minutes of the August 10, 2018 regular session
meeting and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr
and Commissioner Krenzel voted in favor of the motion. The motion passed. Vice Chair Hennelly
abstained.

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 Requests for Renewal of Self-Insurance Authority.

2. Mayo Clinic
3. Pinnacle West Capital Corporation
4. Prudential Overall Supply, Inc.
5. QuikTrip Corporation

Chairman Schultz commented on the excellent experience modification ratings for Mayo Clinic and Pinnacle West Capital Corporation. Commissioner LeMarr moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action regarding rescission of the Commission’s August 10, 2018 approval of ADOSH Citations and Penalties and remand to ADOSH for further consideration.

1. Burlingame Industries Incorporated
2. Fondomonte Arizona, LLC

Commissioner LeMarr noted he was one of the Commissioners in attendance and wished to reconsider both items due to the loud environment of the meeting which made it difficult to hear the remarks from both of the company representatives. Mr. Atencio noted he would like to have an opportunity to take a look at these matters further.

Chairman Schultz discussed the purpose of and process for the Commission’s consideration of ADOSH citations and proposed penalties.

Mr. Atencio noted ADOSH would like to review the files for Burlingame Industries Incorporated and Fondomonte Arizona, LLC in further detail.

Commissioner LeMarr moved to remand Burlingame Industries Incorporated and Fondomonte Arizona, LLC to ADOSH for further consideration. Commissioner Krenzel seconded the motion. Vice Chair Hennelly abstained since he was not present at the meeting. Chairman Schultz, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

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**Arrow Roofing Inc.**
8991 E Valley Rd.,
Prescott Valley, AZ 85314

<table>
<thead>
<tr>
<th>Site Location</th>
<th>2365 Oakwood Dr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection No</td>
<td>W0250 - 1313334</td>
</tr>
<tr>
<td>Inspection Date</td>
<td>05/02/18</td>
</tr>
</tbody>
</table>

**Fatality/Accident**

| Years in Business: | 8 |
| Empl. Covered by inspection: | 6 |

**SERIOUS** – Citation 1 - Item 1a –

a) 2365 W Oakwood Dr., Prescott, AZ: Six employees were re-roofing and installing asphalt shingles around five unprotected skylights without a fall protection system installed. 29 CFR 1926.501(b)(4).

Div. Proposal - $7,000.00

**Formula Amt. - $750.00**

**SERIOUS** – Citation 1 - Item 1b –

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a) 2365 W. Oakwood Dr., Prescott, AZ: Six employees were installing asphalt shingles 27 feet about the ground level without a fall protection system installed. 29 CFR 1926.501(b)(11).
Div. Proposal - $0.00
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 2 –

a) 2365 W. Oakwood Dr., Prescott, AZ: Six employees working at heights above 6 feet or more were not provided with fall protection training. 29 CFR 1926.503(a)(1)).
Div. Proposal - $1,500.00
Formula Amt. - $1,500.00

TOTAL PENALTY - $8,500.00
TOTAL FORMULA AMT. - $3,750.00

Mr. Atencio pulled this file from the meeting for further review. Chairman Schultz and Mr. Atencio discussed it will be heard at a September meeting.

Mountain Vista Medical Center
1301 S. Crimson Rd.,
Mesa, AZ 85209

Fatality/Accident
Years in Business: 10
Empl. Covered by inspection: 4

Site Location: 1301 S. Crimson Rd.,
Mesa, AZ 85209
Inspection No: W0250 - 1303031
Inspection Date: 03/20/2018

Mr. Atencio discussed ADOSH’s fatality investigation and reviewed the file. He noted that ADOSH was not recommending any citations.

Vice Chair Hennelly, Mr. Atencio, and Chairman Schultz discussed the incident and the pre-existing medical conditions.

The Commission took no action.

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

Snow, Carpio, Weekley PLC / Davila

Mr. Ball discussed his analysis of the Petition for Attorney Fees submitted by Mr. Carpio and his representation of Mr. Davila. Mr. Ball noted Mr. Carpio’s time spent and the benefit the Applicant received from his services. Mr. Ball recommended 25% for two years of the current award for a total of $5,351.66 of Applicant’s indemnity benefits.

Vice Chair Hennelly and Mr. Ball discussed the contract with the firm for 25% for ten years was the standard contract and the Commission has established $185 for the attorney rate and $135 for the staff rate. Mr. Ball noted that Mr. Carpio’s time records were conservative.

Vice Chair Hennelly moved to approve staff’s recommendation of $5,351.66 and Commissioner LeMarr seconded the motion.
Chairman Schultz and Mr. Ball discussed a client signing a contract for 25% of permanent disability benefits as being standard. Chairman Schultz noted his concern of a claimant who has signed a contract and then dismisses his attorney after the award of benefits after their attorney has done all of the work. Chairman Schultz asked how this works if the Applicant comes back to re-litigate or attempts to increase LEA. Mr. Ball and Chairman Schultz discussed how the proposed Order addresses splitting the fee.

Vice Chair Hennelly and Mr. Ball discussed the requirement of §23-1069.

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

Mr. Ashley suggested on behalf of the guests who were attending the meeting for Agenda item 5, and the item that had been removed, that the Chairman entertain moving to the public comment section of the agenda at this time to accommodate the guests.

Public Comment.

Chairman Schultz asked if there was any public comment from Mr. or Ms. Dehon since their item was removed from the agenda. Ms. Dehon noted that they did not have any comment at this time.

There was no other public comment.

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.

Mr. Ashley provided an update regarding the ALJ Division noting that candidates have accepted for both the Phoenix and Tucson positions and will start within a few weeks. There will be one more to fill later this year.

Mr. Ashley noted that the feedback regarding the Claims Seminar was very positive and there was record turnout.

Mr. Ashley provided an overview of the new Agency Scorecard and reviewed the new information being tracked and breakthroughs for fiscal year 2019 including the metric definition and algorithm for achieving each goal. Chairman Schultz and Mr. Ashley discussed the jumping off point numbers. Mr. Ashley noted that these metrics will be re-evaluated during the fiscal year to see if any course correction will need to happen to raise the bar or develop countermeasures. Chairman Schultz and Mr. Ashley discussed the Special Fund audits.

Commissioner LeMarr and Mr. Ashley discussed tracking of first time self-insured applications.

Mr. Ashley discussed the tracking of work related injuries and his recent meeting with the Director of the Office of Strategic Planning and Budgeting.

Chairman Schultz extended his congratulations to the staff on what they have been able to accomplish and the number of goals that have been achieved.
Commissioner Krenzel asked about the number of self-insured applications processed throughout the year. Mr. Ashley noted there are approximately 80 participants and will provide detailed information on the steps to process a new application, and the average received every year.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through October 2018. Commissioner LeMarr will call in for the August 23rd meeting pending Vice Chair Hennelly's availability.

Commissioner LeMarr moved to adjourn and Vice Chair Hennelly 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 2:03 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley, Director

ATTEST:

Kara Dimas, Commission Secretary