MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, August 6, 2020 – 1:00 p.m.

Present: Dale L. Schultz Chairman (Telephonic)
Joseph M. Hennelly, Jr. Vice Chair (Telephonic)
Steven J. Krenzel Commissioner (Telephonic)
James Ashley Director (Telephonic)
Gaetano Testini Chief Legal Counsel (Telephonic)
Jason M. Porter Deputy Director (Telephonic)
Trevor Laky Legislative Affairs Chief/Public Information Officer (Telephonic)
Renee Pastor Self Insurance (Telephonic)
Jessie Atencio ADOSH Director (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 Richard Mills (Huhtamaki); and Mike Melander (Edeco-Southwest).

Approval of Minutes of July 30, 2020 Regular Meeting.

Commissioner Krenzel moved to approve the Minutes of the July 30, 2020 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, 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 Requests for Renewal of Self-Insurance Authority.

1. Knight Transportation, Inc.
2. Swift Transportation Co., LLC
3. Mayo Clinic
4. QuikTrip Corporation

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.
Commissioner Krenzel moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenzel 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 petitions and the reasonable hourly rates used in analyzing fee petitions.

Sandra Day and Coleman – Mr. Testini discussed his analysis of the Petition to terminate fees submitted by Ms. Day for a prior 2012 award of fees for her representation of Mr. Coleman.

Chairman Schultz noted it was unusual that the attorney would want to stop her payments before it is completely paid out for a ten year award.

Commissioner Krenzel moved to approve staff’s recommendation to terminate fees. Vice Chair Hennelly seconded the motion.

Mr. Testini requested the motion include electronic signature so it can be taken care of quickly.

Commissioner Krenzel accepted the amendment to allow electronic signature and Vice Chair Hennelly agreed to the amendment. Chairman Schultz, Vice Chair Hennelly 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.

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

Huhtamaki, Inc.
4320 S Cotton Ln
Goodyear, AZ 85338

<table>
<thead>
<tr>
<th>Site Location:</th>
<th>Fatality/Accident</th>
</tr>
</thead>
<tbody>
<tr>
<td>4320 S Cotton Ln</td>
<td>Years in Business: 23</td>
</tr>
<tr>
<td>Goodyear, AZ 85338</td>
<td>Empl. Covered by Inspection: 20</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Inspection No:</th>
<th>03/30/2020</th>
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</thead>
<tbody>
<tr>
<td>R3180 -1471639</td>
<td></td>
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</tbody>
</table>

Mr. Atencio summarized ADOSH’s fatality investigation and reviewed the file. He noted that ADOSH was recommending one non-serious citation with no penalty.

Mr. Mills had no comments.

Chairman Schultz complimented Mr. Mills on the thoroughness of their safety program and stated it is obvious they care very much about maintaining a safe working environment.

Mr. Mills noted it was part of their culture and what they build at their company in Goodyear and across the country and world.

The Commission took no action.
Amazingmail.com, Inc.  
2130 S 7th Ave Ste. 170  
Phoenix, AZ 85007

Complaint

Years in Business: 20
Empl. Covered by Inspection: 14

Site Location: 2130 S 7th Ave Ste. 170  
Phoenix, AZ 85007

Inspection No: K6582-1466969
Inspection Date: 03/03/2020

SERIOUS – Citation 1 - Item 1a –

a) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees performed service and maintenance on the UV Coater, serial #CONX-3790 and model #TRF21, without an energy control program in place.

b) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees performed service and maintenance on the HP Press Machine, model #TRUVIL-16D and serial #CONX-3819, without an energy control program in place. 29 CFR 1910.147(c)(1)
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 1b –

a) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees performed service and maintenance on the UV Coater, serial #CONX-3790 and model #TRF21, without machine specific procedures to prevent the accidental start-up of the equipment.

b) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees performed service and maintenance on the HP Press Machine, model #TRUVIL-16D and serial #CONX-3819, without machine specific procedures to prevent the accidental start-up of the equipment. 29 CFR 1910.147(c)(4)(i)
Div. Proposal - $0.00  
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 2 –

a) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees performed service and maintenance on the UV Coater, serial #CONX-3790 and model #TRF21, without training to isolate hazardous energy sources.

b) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees performed service and maintenance on the HP Press Machine, model #TRUVIL-16D and serial #CONX-3819, without training to isolate hazardous energy sources. 29 CFR 1910.147(c)(7)(i)(A)
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 3 –

a) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees operated a Linde power industrial truck, model and serial numbers unknown, without receiving training. 29 CFR 1910.178(i)(ii)
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00
SERIOUS – Citation 1 - Item 4 –

a) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees were exposed to an ingoing nip point on the UV Coater, serial #CONX-3790 and model #TRF21, as the guard was missing and the interlock device was bypassed.

b) 2130 S 7th Ave Ste 170, Phoenix, AZ 85007: Two employees were exposed to an ingoing nip point on the HP Press Machine, model #TRUVIL1-16D and serial #CONX-3819, as the guard was missing and the interlock device was bypassed. 29 CFR 1910.212(a)(1)

Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00  
TOTAL PENALTY - $7,500.00  
TOTAL FORMULA AMT. - $6,000.00

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

Chairman Schultz commended Mr. Atencio on the grouping of the citations which serves to reduce penalties and appropriately points out the problems that are similar for different machines.

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 penalties as presented and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenzel voted in favor of the motion. The motion passed.

Edeco-Southwest Service Company, LLC  
dba BearCat Mfg.  
3650 Sabin Brown Rd  
Wickenburg, AZ 85390

Site Location: 3650 Sabin Brown Rd  
Wickenburg, AZ 85390

Inspection No: R2410 -1464094  
Inspection Date: 02/19/2020

SERIOUS – Citation 1 - Item 1 –

a) Warehouse roof: One employee laying tarp on a roof was not protected from falling through a skylight that was 30” X 84” approximately 26’ above the ground below. 29 CFR 1910.28(b)(3)(i)

Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 2 –

a) Warehouse Roof: One employee laying tarp on a roof on a building approximately 26’ above the ground level without receiving training. 29 CFR 1910.30(a)(1)

Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 3 –
a) 3650 Sabin Brown Rd, Wickenburg, AZ 85390: An assessment for personal protective equipment (PPE) was not completed. 29 CFR 1910.132(d)(1)
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 4 –

a) 3650 Sabin Brown Rd, Wickenburg, AZ 85390: Two employees operating a Komatsu forklift, model #FD30T-12 and serial #55856A, to lift a man basket attachment without manufacturer’s approval.

b) 3650 Sabin Brown Rd, Wickenburg, AZ 85390: Two employees operating a Komatsu forklift, model #FD30T-12 and serial #55856A, to lift a man basket attachment without the data plate changed to account for the lifting capacity. 29 CFR 1910.178(a)(4)
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

TOTAL PENALTY - $6,000.00  
TOTAL FORMULA AMT. - $6,000.00

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

Chairman Schultz commented that the Commission has been presented with a number of skylight injuries and fatalities in the last two years. Here, this was a 26 foot fall that did not result in a fatality.

Mr. Melander had no comments.

Chairman Schultz thanked Mr. Melander for having an excellent safety program for their operational activities but noted that when it is something out of the ordinary there is so much risk.

Chairman Schultz and Mr. Melander discussed the medical condition of the employee and his work status.

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

Green Medicine
1913 W Copper St
Tucson, AZ 85745

Site Location: 1913 W Copper St
Tucson, AZ 85745

Inspection No: T3633-1464504
Inspection Date: 02/21/2020

SERIOUS – Citation 1 - Item 1 –

a) 1913 W Copper St, Tucson, AZ 85745: Employees used corrosive chemicals without an adequate eye wash facility provided. 29 CFR 1910.151(c)
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00
SERIOUS - Citation 1 - Item 2a –

a) 1913 W Copper St, Tucson, AZ 85745: Employees who operated the Toyota brand forklift, unknown model and serial number, had not been evaluated on the safe operation of the forklift. 29 CFR 1910.178(l)(1)(i)  
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS - Citation 1 - Item 2b –

a) 1913 W Copper St, Tucson, AZ 85745: The Toyota brand forklift, unknown model and serial numbers, did not have a seatbelt installed. 29 CFR 1910.178(p)(1)  
Div. Proposal - $0.00  
Formula Amt. - $1,500.00

SERIOUS - Citation 1 - Item 3a –

a) 1913 W Copper St, Tucson, AZ 85745: Employees used chemicals and products including butane and BioSafe Systems brand ZeroTol 2.0, and a written hazard communication program had not been developed and implemented. 29 CFR 1910.1200(e)(1)  
Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS - Citation 1 - Item 3b –

a) 1913 W Copper St, Tucson, AZ 85007: Employees used chemicals and products including butane and BioSafe Systems brand ZeroTol 2.0, and safety data sheets (SDS) for each hazardous chemical and product were not maintained in the workplace. 29 CFR 1910.1200(g)(8)  
Div. Proposal - $0.00  
Formula Amt. - $1,500.00

SERIOUS - Citation 1 - Item 3c –

a) 1913 W Copper St, Tucson, AZ 85745: Employees used chemicals and products including butane and BioSafe Systems brand ZeroTol 2.0, and employees were not trained concerning the location and availability of the written hazard communication program and safety data sheets (SDS). 29 CFR 1910.1200(h)(2)(iii)  
Div. Proposal - $0.00  
Formula Amt. - $1,500.00  
TOTAL PENALTY - $4,500.00  
TOTAL FORMULA AMT. - $9,000.00

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

Chairman Schultz and Mr. Atencio discussed several of the safety and health violations and the wide range of issues which indicate that the employer could benefit from ADOSH Consultation services.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.
Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenzel voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted that next week will be the first virtual Claims Seminar, and the registration for the seminar of this afternoon was 686 and we will probably exceed 700 tomorrow. There is a great line up with informative topics along with new topics including a COVID 19 Medical Management presentation by Orchard Medical.

Mr. Ashley and Ms. Dimas noted the Commissioners are registered and should receive email confirmations and additional participant information.

Mr. Ashley noted that with the achievement of Voluntary Protection Program status by the Phoenix ICA office in November of 2019, there have been steps to get the Tucson ICA office on that path as well. There will be a virtual banner signing on August 17 for the Tucson office to formally initiate the process and the Commissioners were invited.

Ms. Dimas confirmed Commission meeting dates through October 2020. Noting that August 17, 2020 will be the Supplemental Fee Schedule Hearing and not a regular Commission Meeting and the Monday, August 31, 2020 will be a regular Commission Meeting.

Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:01 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley, Director

ATTEST:

Kara Dimas, Commission Secretary