MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, December 6, 2018 – 1:00 p.m.

Present:

Dale L. Schultz

Chairman

Joseph M. Hennelly, Jr.

Vice Chair

Scott P. LeMarr

Commissioner

Steven J. Krenzel

Commissioner

Jason M. Porter

Deputy Director

Gaetano Testini

Chief Legal Counsel

Trevor Laky

Legislative Affairs Chief / Public Information Officer

Jessie Atencio

ADOSH Director

Rick Jackson

Compliance Officer

Kara Dimas

Commission Secretary

Chairman Schultz convened the meeting at 1:05 p.m. Also in attendance were Tracy Kopp and Kim Bentley (Premier Risk Management); and Michael Fassett (Snell & Wilmer).

Approval of Minutes of November 29, 2018 Regular Meeting.

Commissioner LeMarr moved to approve the Minutes of the November 29, 2018 regular session meeting 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.

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. <u>Approval of Proposed Civil Penalties Against Uninsured Employers.</u>

- 1. 2CRP17/18-0228 Christian Roofing for \$1,000.00
- 2. 2C-17/18-0892 Copper Fitness, LLC for \$1,000.00
- 3. 2C-17/18-0766 Flying Eagle Framing, LLC for \$1,000.00
- 4. 2C-17/18-0949 GLZ Cleaning Services, LLC for \$1,000.00
- 5. 2C-17/18-0950 Martin Framing, LLC for \$1,000.00
- 6. 2C-18/19-0389 My Tree Guy, LLC for \$5,000.00
- 7. 2C-18/19-0390 Simple Mobile Solutions fka Simply Prepaid for \$5,000.00
- 8. 2CRP18/19-0058 Stell Roofing, LLC for \$1,000.00
- 9. 2C-18/19-0391 Threadsly, Inc., dba Proven Collection, LLC for \$5,000.00

Commissioner Krenzel moved to approve the items on the Consent Agenda 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.

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 proposed citations and penalties.

Vinyltech Corporation

Fatality/Accident

201 S 61st Ave.,

Years in Business: 40

64

Empl. Covered by inspection:

Phoenix, AZ 85043

201 S 61st Ave.,

Phoenix, AZ 85043

Inspection No:

Site Location:

I4064 - 1333587

Inspection Date:

07/16/2018

SERIOUS – Citation 1 - Item 1 –

a) Production floor: An employee operating a Hyster 60 forklift, model and serial numbers unknown, was not wearing the available seat belt when transferring PVC pipe. 29 CFR 1910.132(a)

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 2 –

- a) Line 5: An Auto Beller, Model No. 620, Serial No. 3203 and Hydrotester Model No. 851, Serial No. 3203 combination machine was not guarded to protect employees from entering the equipment when in operation.
- b) Line 5, West Side: An 18-inch diameter PVC pipe molding discharge table to the Auto Beller machine was not guarded to protect employees from pinch points.
- c) Line 5 Northwest Side: Two side by side belling machine preheaters mounted on rails automatically move and were not guarded to protect employees from in-running nip points. 29 CFR 1910.212(a)1)

Div. Proposal - \$7,000.00

Formula Amt. - \$2,500.00

TOTAL PENALTY - \$8,250.00

TOTAL FORMULA AMT. - \$3,750.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalties, reviewed the photographs and abatement. Mr. Atencio also noted the total formula amount was not calculated correctly and should be \$3,750.00.

Commissioner Krenzel, Mr. Atencio and Mr. Jackson discussed that the machine was not altered and it is not a moveable piece of equipment.

Commissioner LeMarr and Mr. Atencio discussed the prompt abatement to correct the problems as identified with 10 days of the inspection but it was still operating procedure to not have employees

aware of all of the moving parts. Mr. Atencio noted the safety program for the company and training and noted the difficulty of training on such large machines.

Vice Chair Hennelly and Mr. Atencio noted multiple employees were affected.

Chairman Schultz noted the quick abatement and employer knowledge of the hazard. He discussed the importance of an effective written safety program and having it be part of the day-to-day operations requiring employees to follow those safety programs.

Vice Chair Hennelly and Mr. Atencio discussed the inspection history and a similar inspection in 2016 and any abatement at that time.

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

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas presented a retirement resolution for Jianzin L. Yingst, Customer Service Representative II in Claims, who has provided 15 years of state service. A second retirement resolution is for Greggory A. Morgan, Assistance Claims Manager, who has provided 34 years of state service.

Ms. Dimas noted the Commissioners were invited to the Arizona Rock Products Association Christmas luncheon. Chairman Schultz noted that last year the Governor attended.

Ms. Dimas confirmed Commission meeting dates through January 2019. Commissioner LeMarr discussed quorums for the remaining meeting in December and noted he will call in on December 13th and attend on December 20th. Chairman Schultz asked Mr. Atencio if he had any file deadlines.

Mr. Porter announced and invited the Commissioners to the Workers' Compensation Research Institute (WCRI) national program in Phoenix on February 28 and March 1. If anyone is interested in attending please let Ms. Dimas know. Chairman Schultz noted he thought it would be worthwhile and noted they are a research group. Vice Chair Hennelly and Commissioner Krenzel were interested in attending.

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 1:35 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

Jason Porter, Deputy Director

ATTEST:

Kara Dimas, Commission Secretary