

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

Present:	Dale L. Schultz	Chairman
	Scott P. LeMarr	Commissioner
	Robin S. Orchard	Commissioner
	Steven J. Krenzel	Commissioner
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Self Insurance
	William Warren	ADOSH Director
	Phil Murphy	Assistant ADOSH Director
	Brian Downen	Compliance Officer
	Billie Gingrass	Compliance Officer
	Steven Black	Compliance Officer
	Manuel Saldana	Compliance Officer
	Miguel Castillo	Compliance Officer
	Annalee Humphrey	Compliance Officer
	Michelle Rassi	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were Dianne Shoemake and Larena Sanchez with the City of Glendale and Jessica Aceves and Jordan Chavez with Snell & Wilmer.

Approval of Minutes of January 25, 2018 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the January 25, 2018 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr, Commissioner Orchard, 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. 2C17/18-0329 – Guiding Light Film

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

1. City of Glendale
2. The Arizona School Alliance for Workers' Compensation, Inc.

Chairman Schultz and Commissioner LeMarr commended the City of Glendale on its experience modification rating and denial rate.

Commissioner LeMarr moved to approve the items on the Consent Agenda and Commissioner Orchard seconded the motion. Chairman Schultz, Commissioner LeMarr, Commissioner Orchard, 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.

FedEx Supply Chain, Inc.
777 S. 79th Ave.
Tolleson, AZ 85353

Referral
Years in Business: 2
Empl. Covered by inspection: 3

Site Location: 777 S. 79th Ave.
Tolleson, AZ 85353
Inspection No: T1999-1257778
Inspection Date: 08/25/2017

SERIOUS – Citation 1 - Item 1 – a) 777 S. 79th Ave., Tolleson, AZ 85353: The host employer did not establish an adequate energy control program that included the parts of an effective program, Lockout-tagout procedures, training, auditing, periodic inspections, and locks/devices in order to prevent the unexpected startup or energization of equipment that could cause injury to an employee performing service or maintenance on the equipment. (29 CFR 1910.147(c)(1)).

Div. Proposal - \$5,000.00	Formula Amt. - \$2,250.00
TOTAL PENALTY - \$5,000.00	TOTAL FORMULA AMT. - \$2,250.00

Mr. Warren summarized the citation and proposed penalty and reviewed the photographs.

Commissioner LeMarr, Mr. Warren, and Mr. Saldana discussed the parties involved; the relationship between FedEx Supply Chain and Abacus Staffing; the employer's lockout/tagout procedures; employee training; how the injury occurred; and abatement.

Commissioner Orchard and Mr. Saldana discussed the timeline between the injury and abatement.

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

Randall Ray Ahrns and Shiloh Janelle Ahrns,
individually and as husband and wife
dba Ahrns Contracting

Referral
Years in Business: 20
Empl. Covered by inspection: 4

Discussion and/or Action of Arizona Division of Occupational Safety and Health Discrimination Complaint.

17-3633-18 - Cardenas vs. The Englewood Group

Mr. Warren noted clerical errors in the memorandum to the Commission and stated that the termination date was April 6, 2017. He presented a summary of Mr. Cardenas' complaint, the employer's response, and the ADOSH's findings. Mr. Warren and Mr. Black discussed the claimant's failure to meet his burden of proof.

Mr. Porter, Mr. Warren, and Mr. Black discussed the employer's identity.

Chairman Schultz noted that the timeline was difficult to follow. Chairman Schultz and Mr. Black discussed the MRSA allegations and the job duties of Mr. Cardenas.

Commissioner Orchard, Mr. Warren, and Mr. Black discussed the complainant's allegations concerning the presence and impact of MRSA, and whether the employer provided proof that the apartment had been cleaned before the complainant performed his work.

Commissioner Krenznel commented that it is not uncommon for property owners to change management companies.

Mr. Warren recommended that the Commission not pursue the matter because the investigation did not identify sufficient evidence to support a violation of A.R.S. § 23-425(B).

Chairman Schultz and Mr. Warren discussed additional evidence provided by Mr. Cardenas.

Commissioner LeMarr, Commissioner Orchard, Mr. Warren, and Mr. Black discussed the employer's recordkeeping discrepancies and the complainant's unemployment insurance.

Commissioner Orchard moved to accept ADOSH's recommendation to not pursue the subject discrimination complaint. Commissioner Krenznel seconded the motion. Chairman Schultz, Commissioner LeMarr, Commissioner Orchard, and Commissioner Krenznel voted in favor of the motion. The motion passed.

Executive Session under A.R.S. § 38-431.03(A)(3) and (A)(4) to Discuss Arizona Division of Occupational Safety and Health Discrimination Complaint.

17-3633-18 - Cardenas vs. The Englewood Group

This agenda item was provisional. There was no need for an executive session.

Mr. Warren introduced ADOSH compliance officers Miguel Castillo and Annalee Humphrey.

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 concerning harassment prevention training. He noted that ADOA is working on a disclaimer that would permit all board, committee, and commission members

to take the training. He stated that 85% of Industrial Commission employees had already taken the training. Chairman Schultz, Commissioner LeMarr, and Mr. Ashley discussed notification that the training is available to the Commissioners.

Mr. Ashley discussed House Bill 2047 - the "Allow Act." Chairman Schultz, Commissioner Orchard, and Mr. Ashley discussed the entities that have pledged support for the bill.

Chairman Schultz, Mr. Ashley, and Mr. Porter discussed the Arizona Department of Insurance's new Interim Director, Keith Schraad.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through March 2018.

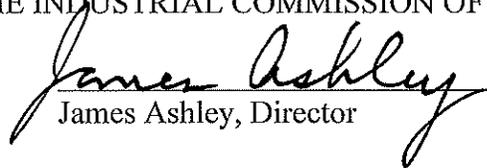
Public Comment.

There was no public comment.

Commissioner Orchard moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr, Commissioner Orchard, and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 1:52 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary