

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, February 23, 2017 – 1:30 p.m.

Present:	Dale L. Schultz	Chairman
	Scott P. LeMarr	Commissioner
	Robin S. Orchard	Commissioner
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Bob Charles	Legislative Affairs Chief / Public Information Officer
	Sylvia Simpson	Chief Financial Officer
	Steven Welker	Labor Director
	William Warren	ADOSH Director
	Brian Downen	Compliance Officer
	Anthony Leyva	Compliance Officer
	Manuel Saldana	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:30 p.m. Also in attendance were Rick Mauldin with The GEO Group, Inc.; Maria Rodriguez with Bodega Latina Corporation dba El Super; Brandan Dodds with the City of Scottsdale; and Jason Weber and Clawson Williams with Snell & Wilmer.

Approval of Minutes of January 26, 2017, February 9, 2017 Regular Meetings and January 26, 2017 Executive Session Minutes.

Commissioner LeMarr moved to approve the Minutes of the January 26, 2017 regular session meeting and Commissioner Orchard seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion. The motion passed.

Commissioner Orchard moved to approve the Minutes of the February 9, 2017 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion. The motion passed.

Commissioner LeMarr moved to approve the Minutes of the January 26, 2017 executive session meeting and Commissioner Orchard seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard 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. 2C16/17-0608 B2 Salon, P.L.L.C.
2. 2C16/17-0626 Latrikunda Transport Services, LLC
3. 2C16/17-1151 Marchingapparel.com, LLC
4. 2C16/17-0628 Maxim Cycle Services, L.L.C.
5. 2C16/17-0635 Rahman Hanic, a single man, dba 7 Brothers Transportation
6. 2C16/17-0611 Randall Gould & Teresia Gould, husband & wife, dba Chicken on the Run
7. 2C15/16-2623 Tarrangas Towing LLC

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

1. City of Yuma
2. Pima County
3. Washington Elementary School District No. 6

Commissioner LeMarr moved to approve the items on the Consent Agenda and Commissioner Orchard seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion. The motion passed.

Presentation from and/or discussion with the Industrial Commission's Public Information Officer. This agenda item may include discussion regarding the operations of the Industrial Commission.

Mr. Charles provided an update on legislative activity. Commissioner LeMarr and Mr. Charles discussed the time remaining in the current legislative session.

Mr. Charles discussed ongoing dialogue with the Arizona Daily Star concerning ADOSH inquiries.

Chairman Schultz and Mr. Ashley discussed the broad support for pending legislation.

Discussion & Action regarding Proposed Youth Employment Penalty.

A-2-Z Roofing Supply Co., DBA A-2-Z Roofing
3392 Bank Street
Kingman, AZ 86409

Case No.: CL-1617-0173

Recommended Penalty: \$300.00

Violation: Allowing a person under the age of eighteen (18) years to work in, about or in connection with roofing operations. Allowing a person under the age of sixteen (16) years to work in, about, or in connection with construction, work from a ladder and a place more than five feet in height.

Mr. Welker summarized the Labor Department's investigation and reviewed photographs.

Commissioner LeMarr, Mr. Warren, and Mr. Welker discussed the origin of the complaint and a corresponding ADOSH citation.

Commissioner Orchard and Mr. Saldana discussed the employer's training program and lack of training on the subject tool.

Chairman Schultz and Mr. Warren discussed the higher/lesser classifications and analysis. Chairman Schultz discussed the calculations of the proposed penalties.

Ms. Rodriguez discussed her understanding of the injured employee's recorded interview, the employee's questionable employment history with the company and experience as a meat cutter, the employer's training program, use of a safety video, and the location of the push plate tool.

Chairman Schultz commented on abatement and efforts of the employer to reduce the potential for future injuries. Ms. Rodriguez commented on the employer's efforts to improve training on the push plate tool. Mr. Warren and Chairman Schultz discussed the absence of a training violation.

Commissioner LeMarr and Ms. Rodriguez discussed the employer's use of E-Verify and the injured employee's employment history with the company.

Commissioner Orchard and Ms. Rodriguez discussed her position was with the company.

Commissioner Orchard moved to amend the citation and proposed penalties as follows: (1) reduce the penalty for Citation 1, Item 2 to \$500.00 (due to immediate abatement), for a total penalty of \$5,500.00. Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion. The motion passed.

The GEO Group, Inc.	Referral	
915 E. Diversion Dam Road	Years in Business:	84
Florence, AZ 85132	Empl. Covered by inspection:	1
Site Location:	915 E. Diversion Dam Road	
	Florence, AZ 85132	
Inspection No:	F3875-1192632	
Inspection Date:	11/16/2016	

SERIOUS – Citation 1 - Item 1 – Building 3, Baker Pod: Employee replaced a fluorescent light fixture on the ceiling of a shower area made contact with live electrical wires that had not been de-energized shocking himself, and the employer had not established lockout/tagout procedures and trained the employee to ensure that the equipment would be isolated and rendered inoperative. (29 CFR 1910.147(c)(1)).

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

Mr. Warren clarified that the subject employer has 109 employees in Arizona and over 20,000 employees internationally. He summarized the citation and proposed penalty and reviewed the photographs.

Commissioner LeMarr and Mr. Warren discussed the subject employee's role and employment status, his normal duties, the duties assigned for the subject project, and circumstances leading to the injury.

Mr. Mauldin clarified that the subject facility was Arizona State Prison Florence West as opposed to the facility listed on the proposed citation. He discussed the classification of the injured

TOTAL PENALTY - \$6,650.00

TOTAL FORMULA AMT. - \$6,650.00

Mr. Warren summarized the citation and proposed penalties and reviewed the photographs. Commissioner LeMarr commented on the observed pressure noted in Citation 1, Item 2.

Commissioner Orchard, Commissioner LeMarr, and Mr. Warren discussed employee complaints and subsequent findings.

Commissioner LeMarr moved to approve the citations and proposed penalties as presented and Commissioner Orchard seconded the motion. Commissioner Orchard and Mr. Warren discussed abatement. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion. The motion passed.

Field Operation Manual Inspection Scope (Walkaround Inspection) Discussion.

Chairman Schultz, Commissioner LeMarr, Commissioner Orchard, and Mr. Warren discussed postponing this item until all Commissioners are present. Commissioner LeMarr made a motion to postpone this item for a later meeting and Commissioner Orchard seconded. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion. The motion passed.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2017. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley discussed an initiative by Governor Ducey to eliminate or amend existing regulations and an internet portal, redtape.az.gov, where the stakeholders can submit suggestions. Chairman Schultz and Mr. Ashley discussed the Special Fund's vocational rehabilitation program, the process for making legislative and rule changes, and the need to revisit old and outdated regulations. Mr. Ashley and Mr. Porter discussed whether rulemaking would be necessary to alter the vocational rehabilitation program. Chairman Schultz emphasized that the Commission should continue to prioritize important projects.

Chairman Schultz and Mr. Ashley discussed the Commission's Arizona Management System accomplishments and mentoring of other agencies.

Mr. Ashley discussed the ALJ hiring process.

Mr. Ashley discussed plans for a second Gemba walk for the Commissioners on March 9, 2017.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through March 2017, including a Commission meeting scheduled for March 31, 2017, in Kingman, Arizona. Commissioner LeMarr and Mr. Ashley asked Mr. Warren to bring ADOSH files that arose in the Kingman area.

Mr. Warren noted that Ruben Rodriguez has been part of Tucson Compliance division for 10 years and has transferred to the Tucson Consultation division.

Commissioner LeMarr, Mr. Ashley and Mr. Warren discussed ADOSH's staffing levels.

Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Orchard seconded the motion. Chairman Schultz, Commissioner LeMarr, and Commissioner Orchard voted in favor of the motion and the meeting was adjourned at 2:56 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary