MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, July 9, 2020 – 1:00 p.m.

Present: Dale L. Schultz Chairman (Telephonic)

Joseph M. Hennelly, Jr. Vice Chair (Telephonic)
Scott P. LeMarr Commissioner (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. There were no other attendees on the telephone confirmed by roll call except staff.

Approval of Minutes of June 25, 2020 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the June 25, 2020 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. Approval of Proposed Civil Penalties Against Uninsured Employers.

1.	2CLP19/20-0170	Joel Herrera Garcia dba Noel's Landscaping \$10,000
2.	2CLP19/20-0144	Outside Solutions LLC \$5,000
3.	2CSP19/20-0128	Villegas Multi-Services LLC \$1,000
4.	2CC19/20-0039	Bjelde Construction LLC \$1,000
5.	2CNP19/20-0237	Bondra Development LLC \$1,000
6.	2CNP19/20-0495	A-Making Changes LLC \$1,000
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7. 2C19/20-0145 The Property Options Group LLC dba P.O.G. Moving & Helpers \$1,000

8. 2CNP19/20-0545 Tonto Rock Products LLC \$1,000

- b. Approval of Requests for Renewal of Self-Insurance Authority.
 - 1. Purcell Tire & Rubber Company
 - 2. Banner Health

Chairman Schultz noted that the representative of b.2. (Banner Health) would like to be a participant for the discussion therefore the item will be moved to the July 30, 2020 Agenda.

Vice Chair Hennelly moved to approve the remaining items on the Consent Agenda understanding that Banner Health would be moved to a later date. Commissioner Krenzel 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 citations and proposed penalties.

Central Pipe Holdings, Inc.,

dba Arizona Electric Motors Service

4365 E Irvington Rd

Tucson, AZ 85714

Site Location:

4365 E Irvington Rd

Tucson, AZ 85714

Inspection No:

R3180 -1461629

Inspection Date:

2/7/2020

SERIOUS – Citation 1 - Item 1a –

a) 4365 E Irvington Rd, Tucson, AZ: The hook on the shop made A-frame overhead crane, unknown brand, model, and serial numbers, was not inspected on a monthly basis. 29 CFR 1910.179(i)(2)(iii)

Div. Proposal - \$600.00

Formula Amt. - \$600.00

Complaint

Years in Business:

Empl. Covered by Inspection:

15

3

SERIOUS - Citation 1 - Item 1b -

a) 4365 E Irvington Rd, Tucson, AZ: An A-frame overhead crane, brand, model, and serial numbers unknown, was not inspected on a periodic basis. 29 CFR 1910.179(j)(3)

Div. Proposal - \$0.00

Formula Amt. - \$600.00

SERIOUS - Citation 1 - Item 2a -

a) 4365 E Irvington Rd, Tucson, AZ: A synthetic web sling, brand, model, and serial numbers unknown, had rips and tears in the stitching and was used by two employees. 29 CFR 1910.184(c)(1)

Div. Proposal - \$600.00

Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 2b –

a) 4365 E Irvington Rd, Tucson, AZ: An alloy steel sling, brand, model, and serial numbers unknown, was used by employees without affixed tags. 29 CFR 1910.184(e)(1)

Div. Proposal - \$0.00 Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 2c –

a) 4365 E Irvington Rd, Tucson, AZ: Synthetic web slings, brand, model, and serial numbers unknown, were used by two employees without a load rating marked on each sling. 29 CFR 1910.184(i)(1)

Div. Proposal - \$0.00

Formula Amt. - \$600.00

SERIOUS - Citation 1 - Item 3 -

- a) 4365 E Irvington Rd, Tucson, AZ: One PMI Panther horizontal band saw, model and serial numbers unknown, did not have the unused portion of the blade guarded.
- b) 4365 E Irvington Rd, Tucson, AZ: One Seneca Falls lathe, model and serial numbers unknown, did not have a guard.
- c) 4365 E Irvington Rd, Tucson, AZ: One The rotating arm on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not guarded.
- d) 4365 E Irvington Rd, Tucson, AZ: One Tree vertical mill did not have the point of operation guarded.
- e) 4365 E Irvington Rd, Tucson, AZ: The foot operated clutch on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not guarded. 29 CFR 1910.212(a)(1) Div. Proposal \$1,000.00 Formula Amt. \$1,000.00

SERIOUS – Citation 1 - Item 4a –

a) 4365 E Irvington Rd, Tucson, AZ: One bench grinder, brand unknown, model #8G-6 and serial #Y, did not have a guard installed over the spindle end, nut, and flange. 29 CFR 1910.215(a)(2) Div. Proposal - \$600.00 Formula Amt. - \$600.00

SERIOUS - Citation 1 - Item 4b -

a) 4365 E Irvington Rd, Tucson, AZ: One bench grinder, brand unknown, model #8G-6 and serial #Y, lacked a tongue guard. 29 CFR 1910.215(b)(9)

Div. Proposal - \$0.00 Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 5a –

a) 4365 E Irvington Rd, Tucson, AZ: Pulleys on the Seneca Falls lathe, unknown model and serial numbers, were not fully enclosed by a guard.

b) 4365 E Irvington Rd, Tucson, AZ: Pulleys on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not fully enclosed by a guard. 29 CFR 1910.219(d)(1)

Div. Proposal - \$600.00

Formula Amt. - \$600.00

SERIOUS - Citation 1 - Item 5b -

- a) 4365 E Irvington Rd, Tucson, AZ: The inclined belts on the Seneca Falls lathe, unknown model and serial numbers, were not fully enclosed by a guard.
- b) 4365 E Irvington Rd, Tucson, AZ: The inclined belts on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not fully enclosed by a guard. 29 CFR 1910.219(e)(3)(i)

Div. Proposal - \$0.00

Formula Amt. - \$600.00

<u>SERIOUS</u> – Citation 1 - Item 5c –

a) 4365 E Irvington Rd, Tucson, AZ: The sprocket wheel and chain on the Potter & Rayfield Browning coil winding machine, model #FW and serial #423, was not fully enclosed by a guard. 29 CFR 1910.219(f)(3)

Div. Proposal - \$0.00

Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 6 –

a) 4365 E Irvington Rd, Tucson, AZ: A written hazard communication program was not developed for employees who were exposed to the hazardous chemicals Xylene and HI THERM BC-346-A. 29 CFR 1910.1200(e)(1)

Div. Proposal - \$600.00

Formula Amt. - \$600.00

TOTAL PENALTY - \$4,000.00

TOTAL FORMULA AMT. - \$7,600.00

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

Chairman Schultz commented that he was pleased with the thorough investigation and the citation groupings.

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 penalty as presented 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.

Mountain View Custom Cabinets, Inc.

Follow Up

23306 N 15th Ave

Years in Business:

Empl. Covered by Inspection:

22 3

Phoenix, AZ 85027

23306 N 15th Ave

Phoenix, AZ 85027

Inspection No:

Site Location:

E0782 -1460424

Inspection Date:

1/17/2020

REPEAT SERIOUS - Citation 1 - Item 1a -

a) 23306 N 15th Ave, Phoenix, AZ 85027: A medical evaluation was not provided for one employee who was required to use a respirator in the workplace. 29 CFR 1910.134(e)(1)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.134(e)(1) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on March 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

REPEAT SERIOUS - Citation 1 - Item 1b -

a) 23306 N 15th Ave, Phoenix, AZ 85027: One employee was required to wear a 3M half facepiece tight-fitting respirator was not fit tested. 29 CFR 1910.134(f)(2)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.134(f)(2) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on March 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

REPEAT SERIOUS – Citation 1 - Item 1c –

a) 23306 N 15th Ave, Phoenix, AZ 85027: Training was not provided to one employee who was required to wear a 3M tight-fitting respirator. 29 CFR 1910.134(k)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.134(k) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on March 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

REPEAT SERIOUS - Citation 1 - Item 2 -

a) 23306 N 15th Ave, Phoenix, AZ 85027: One employee who worked with hazardous chemicals such as Sher-Wood Vinyl Primer Surfacer and Sher-Wood Acrylic Conversion Coatings was not provided with information and training on the hazardous chemicals. 29 CFR 1910.1200(h)(1)

Mountain View Custom Cabinets, Inc. was previously cited for a violation of the Occupational Safety And Health Standard or its equivalent standard 29 CFR 1910.1200(h)(1) which was contained in the ADOSH Inspection Number 1273098, Citation Number 1, Item Number 1b and was affirmed as a final Order on march 27, 2018, with respect to a workplace location at 23306 N 15th Ave, Phoenix, AZ 85027.

Div. Proposal - \$2,000.00

Formula Amt. - \$1,000.00

Citation 2 proposed penalty adjustment is based on the employer's failure to abate the citation from inspection #1273098 resulting in a multiplier of 30 times the original penalty of \$750.00 SERIOUS – Citation 2 - Item 1 –

a) Finishing Room: One employee was exposed to multiple colors of corrosive Sherwin Williams brand Sher-Wood Acrylic Conversion Coating without a suitable facility for quick drenching. 29 CFR 1910.151(c)

Div. Proposal - \$22,500.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2 –

a) 23306 N 15th Ave, Phoenix, AZ 85027: One employee operated a Komatsu power industrial truck, model #FC25ST-11 and serial #407437A, without receiving training. 29 CFR 1910.178(I)(1)(i)

Div. Proposal - \$22,500.00

Formula Amt. - \$1,000.00

SERIOUS - Citation 2 - Item 3 -

a) 23306 N 15th Ave, Phoenix, AZ 85027: One employee operated a Komatsu power industrial truck, model #FC25ST-11 and serial #407437A, without an inspection before it was used. 29 CFR 1910.178(q)(7)

Div. Proposal - \$22,500.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 4a –

- a) South Shop table saw: A Powermatic table saw, model #66 and serial #93661595, was not guarded.
- b) North Shop table saw: A Powermatic table saw, model #66 and serial #84661870, was not guarded. 29 CFR 1910.213(c)(1)

 Div. Proposal \$22,500.00

 Formula Amt. \$1,000.00

SERIOUS – Citation 1 - Item 4b –

- a) South Shop table saw: A Powermatic table saw, model #66 and serial #93661595, was lacking the spreader.
- b) North Shop table saw: A Powermatic table saw, model #66 and serial #84661870, was lacking the spreader. 29 CFR 1910.213(c)(2)

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

<u>SERIOUS</u> – Citation 1 - Item 4c –

- a) South Shop table saw: A Powermatic table saw, model #66 and serial #93661595, was lacking the non-kickback or dogs.
- b) North Shop table saw: A Powermatic table saw, model #66 and serial #84661870, was lacking the non-kickback or dogs. 29 CFR 1910.213(c)(3)

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$94,000.00

TOTAL FORMULA AMT. - \$10,000.00

Mr. Atencio noted the lack of response from the employer in this matter and after numerous attempts for abatement. He discussed ADOSH's current investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Vice Chair Hennelly and Mr. Atencio discussed the numerous attempts to contact the employer for abatement and the inspection process going back three years, as well as the attempts to have someone join the meeting so they can participate.

Vice Chair Hennelly confirmed it was the lack of responsiveness that led to the re-inspection and that the Commission often reduces penalties when there is quick abatement. Mr. Atencio agreed and noted this is not typical and ADOSH successfully works with the majority of employers.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner LeMarr moved to approve the citation and proposed penalty as presented 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.

Chairman Schultz noted that Mr. Atencio was generous with the groupings and appreciates how hard he tried to get these folks to respond and address these serious safety issues.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through August 2020. Vice Chair Hennelly and Commissioner LeMarr will not be available for the August 14, 2020 meeting and Chairman Schultz noted that meeting may be cancelled unless there is a time sensitive matter.

Ms. Dimas presented a retirement resolution for Gilbert Bracamonte, Senior Safety Consultant in the Tucson ADOSH Division for 34 years of state service. Mr. Atencio noted that Mr. Bracamonte wanted him to share his appreciation for the Commission and all that it does; as someone who started working at the Commission in 1985 a lot has improved, having worked for multiple Division Directors and Assistant Directors, he is happy to know with the progress made through AMS we are moving towards goals and accountability and are in a great position to continue to lead in our field.

Public Comment.

There was no public comment.

Commissioner Krenzel 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 1:51 p.m.

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Tames Ashley Director

ATTEST

Kara Dimas, Commission Secretary