

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 2675 East Broadway Boulevard
Tucson, Arizona 85716
Thursday, October 12, 2017 – 1:30 p.m.

Present:	Robin S. Orchard	Acting Chair
	Scott P. LeMarr	Commissioner (telephonic)
	Steven J. Krenzel	Commissioner (telephonic)
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance (telephonic)
	William Warren	ADOSH Director
	Phillip Murphy	Assistant ADOSH Director
	George Hall	Compliance Officer
	Ruben Rodriguez	Compliance Officer
	Michael Martin	Compliance Officer
	Gilbert Bracamonte	Compliance Officer
	Kara Dimas	Commission Secretary

Acting Chair Orchard convened the meeting at 1:30 p.m. Also in attendance were Joseph Capek, Debbie Sellers and Hector Contreras with Petersen-Dean, Inc. dba Petersen Dean; Danny Lopez with Rowley Enterprises, Inc. dba Rowley Construction; and Nicole Whitney with Snell & Wilmer.

Approval of Minutes of October 5, 2017 Regular Meeting.

Acting Chair Orchard postponed approval of the Minutes from the October 5, 2017 regular meeting to the next meeting.

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. Medtronic, Inc.

Commissioner Krenzel moved to approve the item on the Consent Agenda and Commissioner LeMarr seconded the motion. Acting Chair Orchard, 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.

Commissioner LeMarr moved to amend the proposed penalties, as follows: (1) reduce the proposed penalty for Citation 1, Item 1 to \$2,500.00, for a total proposed penalty of \$4,000.00. Commissioner Krenznel seconded the motion. Acting Chair Orchard, Commissioner LeMarr, and Commissioner Krenznel voted in favor of the motion. The motion passed.

Inventure Foods, Inc.		Referral	
3500 S. La Cometa		Years in Business:	30
<u>Goodyear, AZ 85338</u>		Empl. Covered by inspection:	12
Site Location:	3500 S. La Cometa		
	Goodyear, AZ 85338		
Inspection No:	A3807-1248546		
Inspection Date:	07/20/2017		

REPEAT-SERIOUS – Citation 1 - Item 1 –

- a) Packing Line #10: One employee was exposed to an inadequately guarded sprocket and chain drive assembly in that a gap of more than one inch in the guard did not protect an employee from making contact with the drive mechanism. (29 CFR 1910.219(f)(3)).
- b) Packing Line #11: One employee was exposed to an inadequately guarded sprocket and chain drive assembly in that a gap of approximately one inch at the top of the guard did not protect the employee from making contact with the drive mechanism. (29 CFR 1910.219(f)(3)).

Inventure Foods, Inc., was previously cited for a violation of this occupational safety and health standard or its equivalent standard 29 CFR 1910.212(a)(1), which was contained in ADOSH inspection number 1161311, citation number 1, item number 2a and was affirmed as a final order on November 1, 2016, with respect to a workplace located at 3500 S La Cometa Rd, Goodyear, AZ 85338.

Div. Proposal - \$12,500.00	Formula Amt. - \$12,500.00
TOTAL PENALTY - \$12,500.00	TOTAL FORMULA AMT. - \$12,500.00

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

Commissioner LeMarr and Mr. Warren discussed the June 2017 “in-compliance” inspection, differences between the prior and current violations, and the basis for a “repeat” violation.

Acting Chair Orchard and Mr. Warren discussed the differences and similarities between the 1910-219(f)(3) and 1910.212(f)(1) standard, the basis for the “repeat” violation, and the FOM’s equivalency standard.

Acting Chair Orchard, Commissioner LeMarr, Commissioner Krenznel, and Mr. Warren discussed the scope of the June 2017 and July 2017 inspections, the 2016 inspection, and the likelihood that the June 2017 inspection would have revealed the same issues identified in the July 2017 inspection.

Commissioner LeMarr requested legal advice regarding the citation and proposed penalty and Mr. Porter suggested going into executive session.

Commissioner Krenznel moved to enter executive session and Commissioner LeMarr seconded the motion. Acting Chair Orchard, Commissioner LeMarr, and Commissioner Krenznel voted in favor

use of guardrail systems, safety net systems, or personal fall arrest systems. (29 CFR 1926.501(b)(4)(i)).

c) 4320 S Cotton Ln., Goodyear, AZ: One employee and multiple subcontractor employees were not protected from objects or employees falling through skylights. (29 CFR 1926.501(b)(4)(iii)).

d) 4320 S Cotton Ln., Goodyear, AZ: One employee and multiple subcontractor employees working on a roof, with an approximate 40 feet fall hazard, with covers over a broken skylights that were not color coded or marked with the word "HOLE" or "COVER" to provide warning of the hazard. (29 CFR 1926.502(i)(4)).

Div. Proposal - \$3,500.00	Formula Amt. - \$3,500.00
TOTAL PENALTY - \$7,000.00	TOTAL FORMULA AMT. - \$7,000.00

Mr. Warren summarized the citations and proposed penalties and reviewed the photographs. Acting Chair Orchard, Mr. Warren, and Mr. Porter noted that this file was discussed at the last meeting and that clerical errors had been corrected by ADOSH.

Commissioner LeMarr, Mr. Warren, and Mr. Murphy discussed the citations and penalties assessed on other employers at the worksite. Mr. Murphy explained that the penalties for the contractors differed because of the fatality.

Commissioner Krenzel moved to approve the citations and proposed penalties as presented and Commissioner LeMarr seconded the motion. Acting Chair Orchard, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed.

Petersen-Dean, Inc. dba Petersen Dean
2224 W. Shangri-La Road
Phoenix, AZ 85029

Referral
Years in Business: 33
Empl. Covered by inspection: 4

Site Location: 3257 E. Indigo Bay Ct.
Gilbert, AZ 85234
Inspection No: W0250-1244271
Inspection Date: 07/03/2017

REPEAT-SERIOUS – Citation 1 - Item 1 – 3257 E. Indigo Bay, Mesa, AZ 85205: Two employees engaged in roofing activities on a 4:12 pitched roof were not protected from falling 9ft to the ground below by guardrail systems, safety net systems, or personal fall arrest systems. (29 CFR 1926.501(b)(10)).

Petersen-Dean Inc. was previously cited two times for a violation of this occupational safety and health standard or its equivalent standard 29 CFR 1926.501(b)(10) which was contained in ADOSH inspection number 1108328, citation number 1, item number 1 and was affirmed as a final order on 5/06/2016, with respect to a workplace located at 1187 N 164th Ave in Goodyear, AZ, 85338 and ADOSH inspection number 1113375, citation number 1, item number 1 and was affirmed as a final order on 5/02/2016, with respect to a workplace located at 1842 N 156th Dr. in Goodyear, AZ 85395.

Div. Proposal - \$25,000.00	Formula Amt. - \$25,000.00
TOTAL PENALTY - \$25,000.00	TOTAL FORMULA AMT. - \$25,000.00

Mr. Warren noted this matter had been removed from the Agenda due to errors in the report and would be presented at a future meeting.

of the Consultation Division. Acting Chair Orchard, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion. The motion passed as presented.

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 agency scorecard metrics related to Special Fund voluntary settlements and ALJ Awards. He also discussed a new metric for the Legal Division's Compliance Unit concerning insurance obtained as a result of the Compliance Unit's efforts. Mr. Ashley noted that Compliance Unit had exceeded expectations thus far.

Mr. Ashley and Mr. Porter discussed a Gemba walk with GTO representatives focused on the Supplier, Input, Process, Output, Customer (SIPOC) efforts. Mr. Ashley noted that the Commission is developing standard work and best practices to be shared with other agencies. Mr. Porter provided an overview of the SIPOC process and the Commission's SIPOC training status.

Mr. Ashley discussed the Governor's initiatives for October: Domestic Violence Awareness and Substance and Opioid Abuse Awareness. He noted that the Commission lit the building purple on October 2, that October 19 will be "wear purple" day, and that the Commission held a training event to raise awareness about the issue. Mr. Ashley stated that, on October 23, the Governor will speak at the Capitol and would welcome the Commissioners to attend the event on the Capitol Lawn.

Acting Chair Orchard and Mr. Ashley discussed an event at Raytheon Missile Systems for their 10-year celebration as a Voluntary Protection Partner. Acting Chair Orchard recounted that it was a great event and discussed Raytheon's partnership with ADOSH.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed the Commission Meeting dates through November 2017.

Mr. Warren discussed the Phoenix Safety Summit. Acting Chair Orchard, Mr. Ashley, and Mr. Warren discussed methods used to promote ADOSH Safety Summits.

Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Commissioner LeMarr seconded the motion. Acting Chair Orchard, Commissioner LeMarr, and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:30 p.m.

ATTEST:

Kara Dimas
Kara Dimas, Commission Secretary

THE INDUSTRIAL COMMISSION OF ARIZONA

By

James Ashley
James Ashley, Director