

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, October 18, 2018 – 1:00 p.m.

Present:	Joseph M. Hennelly, Jr.	Acting Chairman
	Scott P. LeMarr	Commissioner (Telephonic)
	Steven J. Krenzel	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Sylvia Simpson	Chief Financial Officer
	Stacy Allison	Accounting
	Renee Pastor	Self Insurance
	Jessie Atencio	ADOSH Director
	Kara Dimas	Commission Secretary

Acting Chairman Hennelly convened the meeting at 1:00 p.m. Also in attendance were Jeff Weber and Susie Weber (Reddy Rents); Dave Howard, Tracy Kopp and Brenda Pinegar (Premier Risk Management); Michael Fassett (Snell & Wilmer).

Approval of Minutes of October 11, 2018 Regular Meeting.

Commissioner Krenzel moved to approve the Minutes of the October 11, 2018 regular session meeting and Commissioner LeMarr seconded the motion. Acting Chairman 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. 2C-17/18-0893 - Direct Web Development Group LLC
2. 2C-17/18-0650 - Juntos Ventures LLC
3. 2C-18/19-0079 - Rusty Gewecke, asm, dba Rusty's Restaurant
4. 2C-18/19-0081 - Simple Mobile Solutions, fka Simply Prepaid
5. 2C-17/18-0895 - Gracious Haven Healthcare, LLC

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

1. DG Retail, LLC
2. Ruan Transportation Management Systems, Inc.

Acting Chairman Hennelly reviewed the Consent Agenda. Commissioner Krenzel requested the self-insurance renewal for Ruan Transportation Management Systems, Inc. (Item (b)(2)) be moved to another week because of a potential conflict of interest. Acting Chairman Hennelly moved the DG Retail, LLC (Item (b)(1)) to the regular agenda.

Commissioner Krenzel moved to approve the remaining items on the Consent Agenda and Commissioner LeMarr seconded the motion. Acting Chairman Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Approval of Requests for Renewal of Self-Insurance Authority.

1. DG Retail, LLC

Acting Chairman Hennelly and Ms. Pastor discussed the concerns of the rather high denial rate but noted they are under 12% and that there were 38 claims files and 4 were denied. They are within the general parameters of retail employers.

Commissioner Krenzel moved to approve the renewal of self-insurance authority for DG Retail, LLC and Commissioner LeMarr seconded the motion. Acting Chairman Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action regarding the Setting of Assessments under A.R.S. §§ 23-961(G), 23-1065(A), and 23-1065(F) for Calendar Year 2019.

Ms. Simpson discussed the Commission's authority to levy assessments pursuant to A.R.S. §§ 23-961(G), 23-1065(A), and 23-1065(F) and the current assessment rates. She then reviewed the staff memorandum and recommendations.

Acting Chairman Hennelly noted 1.75% is among the lowest the rate has been. He noted the calculation looks conservative and safe.

Ms. Simpson relayed staff's recommendation that § 23-961(G) assessment rate remain the same for 1.75% in CY 2019. Ms. Simpson relayed staff's recommendation that the Commission continue the §§ 23-1065(A) and 1065(F) assessments at 0% for CY 2019.

Commissioner LeMarr noted he is glad the rate continues to be as low as it is.

Mr. Ashley noted it is consistent with last year's low rate and it will allow the agency to successfully perform its mission.

Commissioner LeMarr moved to approve 1.75% as the CY 2019 assessment rate under § 23-961(G); 0% as the CY 2019 assessment rate under § 23-1065(A); and 0% as the CY 2019 assessment rate under § 23-1065(F). Commissioner Krenzel seconded the motion. Acting Chairman 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.

Acting Chairman Hennelly discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.





Acting Chairman Hennelly acknowledged that the facility is a substantial operation which just fell short in a couple of areas. Mr. Atencio discussed the need for resampling when a hearing conservation program is in place if changes are made on a few lines.

Based upon the company's abatement efforts, Commissioner Krenzel moved to reduce the proposed penalty by 20%, from \$3,600.00 to \$2,880.00. Commissioner LeMarr seconded the motion. Acting Chairman Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

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 on the new Claims IT system and a new roll out date of February, 2019.

Mr. Ashley noted discussion of a provision to make it easier for carriers to update changes of Third Party Administrators in the system so that information will be available to interested parties and maintained whenever a change occurs. He noted that Mr. Testini will provide additional information at a future meeting. Acting Chairman Hennelly noted he had heard comments while at the State Bar Seminar in Flagstaff and it makes sense that the process be addressed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through December 2018. Acting Chairman Hennelly noted he may not be available for the Tucson meeting or for the last two meetings of the year.

Mr. Ashley reminded the commissioners that next week will be the second half of the Gemba walk for the remaining divisions.

Mr. Ashley provided an update on the Tucson outreach plans. He noted they would invite the state legislative representatives for the area.

Mr. Ashley announced that Mesquite Solar of Tonopah will celebrate their VPP Recertification with an event on November 14, 2018.

Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Krenzel seconded the motion. Acting Chairman Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 1:59 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

ATTEST:

Kara Dimas  
Kara Dimas, Commission Secretary

By James Ashley  
James Ashley, Director