MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting Held at 800 West Washington Street Phoenix, Arizona 85007 Thursday, September 16, 2021 - 1:00 p.m.

Present: Dale L. Schultz Chairman (Telephonic)

Vice Chair (Telephonic) Joseph M. Hennelly, Jr. Scott P. LeMarr Commissioner (Telephonic) Commissioner (Telephonic) D. Alan Everett

James Ashley Director (Telephonic)

Chief Legal Counsel (Telephonic) Gaetano Testini Jason M. Porter Deputy Director (Telephonic)

Trevor Laky Legislative Affairs Chief/Public Information Officer (Telephonic)

Labor Director (Telephonic) Lisa Padgett Renee Pastor Self Insurance (Telephonic) Jessie Atencio ADOSH Director (Telephonic) Steven Black ADOSH Compliance (Telephonic) ADOSH Admin (Telephonic) Anna Maria Stonerock

Kara Dimas Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were Larry Reilly (Bottle Breacher, LLC); Mark Witte and Frank Quevedo (Mesa Fully Formed, LLC).

Approval of Minutes of September 2, 2021 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the September 2, 2021 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett 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 Requests for Renewal of Self-Insurance Authority.

- 1. Salt River Project Agricultural Improvement and Power District and the Salt River Valley Water Users' Association ("SRP")
- Young Electric Sign Company

Vice Chair Hennelly moved to approve the items on the Consent Agenda as presented and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Discussion and/or Action pursuant to A.R.S. §23-363(B) to Adopt the Minimum Wage for Calendar Year 2022.

Mr. Testini explained that pursuant to A.R.S. §23-364(A) the Commission enforces the Fair Wages and Healthy Families Act and pursuant to A.R.S. §23-363(B), beginning January 2021 the minimum wage increases based on the increase in the cost of living which is measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index (all urban consumers, U.S. city average for all items) with the increase rounded to the nearest multiple of five cents. Mr. Testini explained that the Consumer Price Index as of August 2021 showed a 5.3% cost of living increase, compared to August 2020. He explained that this results in an increase of \$0.64395 per hour and the statute directs the wage increase be rounded to the nearest multiple of five cents which means the rate will increase by \$.65 for 2022 - \$12.80 per hour. In accordance with the requirements of the statute, he stated that the Labor Department recommends the Commission approve the rate of \$12.80 per hour effective January 1, 2022 as the Arizona minimum wage.

Commissioner LeMarr moved to approve the Arizona minimum wage of \$12.80 for calendar year 2022. Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett 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.

Planned

Years in Business:

Empl. Covered by Inspection:

7

8

Bottle Breacher LLC

1870 W Prince Rd #35

Tucson, AZ 85705

Site Location:

1870 W Prince Rd #35

Tucson, AZ 85705

Inspection No:

T3633 - 1544464

Inspection Date:

7/28/2021

SERIOUS – Citation 1 - Item 1a –

- a) Powder coat suite: The Kool Koat brand powder coat booth used to spray colored powder coats, unknown model and serial number, did not have a device to indicate that air speed was maintained.
- b) Powder coat suite: The Kool Koat brand powder coat booth used spray black powder coat, unknown model and serial number, did not have a device to indicate that air speed was maintained. 29 CFR 1910.107(b)(5)(i)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 1b –

- a) Powder coat suite: The Kool Koat brand powder coat booth used to spray colored powder coats, unknown model and serial number, was not protected with an automatic fire protection system.
- b) Powder coat suite: The Kool Koat brand powder coat booth used spray black powder coat, unknown model and serial number, was not protected with an automatic fire protection system. 29 CFR 1910.107(b)(5)(iv)

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

SERIOUS - Citation 1 - Item 1c -

a) Powder coat suite: The Kook Koat brand powder coat booth used to spray colored powder coats, had stored items including metal racks and cardboard boxes outside the booth along the east wall of the booth. 29 CFR 1910.107(b)(9)

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 1d –

a) Powder coat suite: The Kook Koat brand powder coat booth used to spray colored powder coats, unknown model and serial number, had an electrical light fixture hung up inside the booth on the right wall. 29 CFR 1910.107(c)(8)

Div. Proposal - \$0.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2 –

a) 1870 W Prince Rd, #35: A written certification was not maintained to document that the company had performed a workplace hazard assessment for personal protective equipment (PPE). 29 CFR 1910.132(d)(2)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS - Citation 1 - Item 3 -

a) 1870 W Prince Rd, #35: Employees used 3M brand, model 6200 half-face air purifying respirators during powder coating work, and a written respirator protection program had not been established. 29 CFR 1910.134(c)(1)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS - Citation 1 - Item 4 -

a) 1870 W Prince Rd, #35, Tucson. Employees performed servicing and maintenance work on the laser etching machines, model and serial numbers unknown, and an emergency control program had not been established.

b) 1870 W Prince Rd, #35, Tucson. Employees performed servicing and maintenance work on the Hurco brand CNC mill, unknown model and serial number, and an energy control program had not been established. 29 CFR 1910.147(c)(1)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$4,000.00

TOTAL FORMULA AMT. - \$7,000.00

Mr. Atencio noted that the Compliance Officer, Mr. Black was available for questions. Mr. Atencio discussed ADOSH's planned inspection, summarized the citation and proposed penalties, and reviewed the photographs.

Mr. Reilly asked for clarification on Item 4 regarding the emergency control program and assumed it is the energy control program.

Mr. Atencio confirmed that that Item 4 a should refer to an energy control program.

Chairman Schultz thanked Mr. Reilly for joining the meeting.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Mesa Fully Formed, L.L.C.

Planned

4051 E Columbia St

Years in Business:

52

Tucson, AZ 85714

4051 E Columbia St

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Empl. Covered by Inspection: 33

Inspection No:

Site Location:

Tucson, AZ 85714 T3633 -1547180

Inspection Date:

8/12/2021

SERIOUS - Citation 1 - Item 1 -

a) Laminate shop: Material stored along the west wall was not secured from sliding or falling.

b) East building: Wood and acrylic sheets were stored leaning against the south wall so that they were not secured from sliding or falling. 29 CFR 1910.176(b)

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS - Citation 1 - Item 2 -

a) Acrylic area: A horizontal belt sander, unknown manufacturer, model and serial number, did not have the top guard installed. 29 CFR 1910.212(a)(1)

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1 - Item 3 –

a) East building: A Powermatic brand table saw, model 66-TA SAW and serial number 06050660586, used for cutting plywood did not have a blade guard installed. 29 CFR 1910.213(d)(1)

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1 - Item 4 –

a) East building: The sawdust collection system installed for use with the Powermatic brand table saw, model 66-TA SAW and serial number 06050660586, was not operating. 29 CFR 1910.1000(e)

Div. Proposal - \$2,125.00

Formula Amt. - \$2,125.00

TOTAL PENALTY - \$7,375.00

TOTAL FORMULA AMT. - \$7,375.00

Mr. Atencio noted that the Compliance Officer, Mr. Black was available for questions. Mr. Atencio discussed ADOSH's planned inspection, summarized the citation and proposed penalties, and reviewed the photographs.

Chairman Schultz checked if anyone on the phone would like to comment.

Mr. Witte provided information on the abatement steps taken by the company, and discussed possible solutions for item 1 with Mr. Atencio.

Chairman Schultz was impressed with the research performed by Mr. Witte which shows his interest in providing a safe workplace. He applauded Mr. Witte's efforts in contacting others to set industry standards. That is the kind of spirit and commitment to safety that the Commission looks for.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Chairman Schultz thanked Mr. Witte for joining the meeting and Mr. Atencio will be contacting him after the meeting.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley commented on new features for stakeholders in the ICA Community Portal allowing for the ability to receive individual, rather than combined, new claim notifications, and a courtesy fax communication tool allowing carriers and the self-insured community flexibility to have communications sent to up to 20 fax numbers to assist in the distribution of Claims and ALJ notices to allow for more timely receipt by the carriers, self-insured and third-party adjustors.

Chairman Schultz congratulated Mr. Ashley on the significant improvement in the system. He has been incredibly pleased with the new system which has been positively received.

Mr. Ashley recognized the Labor Department, and shared a complimentary email that was sent to the Labor Department from an individual with a wage claim. It is a great testament to the work that the Labor Department does every day to have a positive beneficial impact for Arizonans and thanked Ms. Padgett and the team.

Chairman Schultz thanked Ms. Pagett and appreciated what the Labor Department does each and every day, protecting our children entering the workforce, protecting frontline workers in receiving their owed wages, and administering the complex earn paid sick time regulations including helping employers understand the program through the amazing FAQs.

Ms. Padgett appreciated the kind words noting that amazing teams do amazing things and the Labor team is out of this world for the commitment that they have every day remembering that on the other side of the claim is an individual. She will mention the kind words at their huddle this afternoon.

Ms. Dimas confirmed Commission meeting dates through November 2021. Vice Chair Hennelly confirmed he was not available for the first two October meetings. Commissioner LeMarr noted he may not be available on November 4 and will confirm.

Public Comment.

There was no other public comment.

Vice Chair Hennelly moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Everett voted in favor of the motion and the meeting was adjourned at 2:04 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley, Director

ATTEST:

Kara Dimas, Commission Secretary