

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Auditorium and Conference Room 308  
Phoenix, Arizona 85007  
Thursday, September 21, 2017 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Robin S. Orchard	Commissioner
	Steven J. Krenzel	Commissioner
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Self Insurance
	William Warren	ADOSH Director
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. in the Auditorium. Also in attendance were members of Carpenters Union Local 1912 and Emily Bregel with the Arizona Daily Star. See attached sign-in sheets.

Approval of Minutes of September 14, 2017 Regular Meeting.

Vice Chair Hennelly moved to approve the Minutes of the September 14, 2017 regular session meeting and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner Orchard, and Commissioner Krenzel voted in favor of the motion. The motion passed.

Public Comment.

Chairman Schultz stated that the Public Comment agenda item would be moved forward. He discussed the purpose of and process for public comment.

Fabian Sandez, President of Carpenters Union Local 1912, discussed Local 1912's membership; voiced his concerns about the Commission's oversight and protection of Arizona workers; discussed wage theft, fraud, and willful safety violations in the construction industry; objected to the Commission's response to these issues; and referenced recent OSHA letters concerning the Commission's actions. He demanded that Chairman Schultz resign and that Mr. Warren be removed as the ADOSH Director.

Steve Pasko, member of Local 1912, discussed wage theft and fraud in Arizona; the existence of an underground cash-only economy; the black market for labor that exploits desperate workers, creates significant revenue losses, and perpetuates criminal activity; the Union's payroll task force; the Union's investigation related to Apodaca Wall Systems, Inc.; concerns that the Commission had not discovered wage theft and fraud issues related to Apodaca Wall Systems, Inc.; the Commission's purposes; and his intent to follow up on these matters.

Matthew Capalby, member of Local 1912, complimented reporter Emily Bregel on her work and discussed the financial and physical wellbeing of carpenters, their families, and workers throughout Arizona. He stated that he felt that the Commission had failed to adequately protect Arizona's workers. He discussed an OSHA letter concerning the Commission's actions; the Commission's response to the OSHA correspondence; and Commission actions related to willful safety violations. He discussed Jose Mata's injury and asked that Chairman Schultz resign and that Mr. Warren be removed as the ADOSH Director.

Mr. Mata discussed his industrial injury, its impact on his family, and his concerns about the workers' compensation system. He also discussed the Commission's role in workplace safety, and difficulty he experienced in seeing doctors for workplace injuries.

Chairman Schultz respectfully asked the Union members to wait before leaving so that he might respond to the criticism. He stated that he cares deeply about Arizona's workers, discussed meetings he has had with injured workers' families, and noted a recent speaking engagement concerning workplace safety in front of over 200 workers at a construction site. He noted the Commission's 41 worksite safety visits during a ten-day period in May, noting that he and the other Commissioners are not paid for their service, but serve because they care. He discussed the Commission's efforts to improve workplace safety in Arizona; significant reductions in the occurrence of industrial injuries over the past two years (10,000 per year); and the disruptive impact of a workplace injury on workers' families. He noted Mr. Warren's personal experiences with workplace fatalities and how those experiences motivate him as a safety professional. He noted his appreciation for and understanding of the Union's concerns; discussed OSHA's approach, and highlighted the Commission's innovative approaches to workplace safety.

Mr. Rodriguez interrupted Chairman Schultz, asked him to "quit filibustering," and said that he believed Chairman Schultz had "proved his point." He restated his concerns about ADOSH settlements and policies that affect the "lives of the blue-collared man." He indicated that he would appreciate a response, but that "the Arizona Carpenters are walking away." He indicated that he would like to meet at another date and renewed his request for Chairman Schultz' resignation, along with "action" and "change."

The members of the Local 1912 left the meeting.

Chairman Schultz recessed the meeting at 1:22 p.m. and reconvened at 1:32 p.m. in Conference Room 308. Also present was Emily Bregel with the Arizona Daily Star; Raymond Byrne and Scott Hayes with America Roofing; Bill Cooper representing America Roofing, LLC; Jennifer Warren; Stephanie Coulter with the Cavanagh Law Firm; and Jessica Aceves with Snell & Wilmer.

Chairman Schultz continued the Public Comment agenda item.

Raymond Byrne, President of America Roofing, responded to the statements made by members of the Local 1912, commented that he has been in business for 19 years and had not understood the relationship between the Commission and ADOSH until the appointment of the current Commission leadership. He noted that he appreciates the opportunity, as a business owner, to participate in Commission matters; that that the Commission's alliances have been instrumental in helping improve safety in the industry; and he thanked the Commission.

Chairman Schultz concluded the Public Comment period and continued with the regularly-scheduled agenda.

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.

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a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C17/18-0045 Chandler Inn dba AP Acquisitions, LLC
2. 2C17/18-0188 PKC Enterprises, Inc. (A Dissolved Corporation) dba Diamond Brooks Bottled Water

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

1. FedEx Freight, Inc.
2. Ruan Transportation Management Systems, Inc. (Ruan)

Chairman Schultz applauded the excellent experience modification rating of FedEx Freight, Inc.

Chairman Schultz, Commissioner Krenzel, and Mr. Porter discussed removing item b.2. (Ruan Transportation Management Systems, Inc. (Ruan)) from the Consent Agenda. Chairman Schultz removed item b.2. from the Consent Agenda.

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

Ruan Transportation Management Systems, Inc. (Ruan): Commission Krenzel recused himself from this item due to a conflict of interest. Commissioner Orchard moved to approve Ruan Transportation Management Systems' request for renewal of self-insurance authority. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner Orchard voted in favor of the motion. Commissioner Krenzel abstained. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

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

America Roofing LLC  
1005 S 30<sup>th</sup> Ave  
Phoenix, AZ 85009

Inspection No: A3807-1243933  
Inspection Date: 06/27/2017  
Site Location: 4950 W Chandler Blvd  
Chandler, AZ 85226

Planned  
Years in Business: 18  
Empl. Covered by inspection: 3

SERIOUS – Citation 1 - Item 1 – Building Section A1: Three employees were engaged in roofing activities on a low sloped roof and were not protected from falling approximately 40 feet to the ground below by the use of conventional fall protection or the combination of other fall protection systems required by the standard. (29 CFR 1926.501(b)(10)).

Div. Proposal - \$4,000.00	Formula Amt. - \$4,000.00
TOTAL PENALTY - \$4,000.00	TOTAL FORMULA AMT. - \$4,000.00

Mr. Warren summarized the citation and proposed penalty, discussed the company's inspection history, and reviewed the photographs.

Commissioner Orchard and Mr. Warren discussed whether a supervisor was on site and the employer knowledge requirement.

Vice Chair Hennelly and Mr. Warren agreed that the roofing foreman was depicted without proper tie-offs in multiple photographs.

Mr. Byrne noted that neither he, nor the supervisor, were present at the time of the inspection.

Mr. Cooper thanked the Commission for the opportunity to discuss the proposed citation. He discussed whether the employer knowledge requirement was met. Specifically, Mr. Cooper indicated that there was no supervisor or foreman on site the day of the incident.

Commissioner Orchard and Mr. Cooper discussed abatement.

Mr. Warren stated that Mr. Lopez and his crew identified Mr. Lopez as the site foreman.

Chairman Schultz noted employer knowledge is an employer defense that can be raised during the hearing process. He noted that the photos demonstrate that employees were on roofs without adequate fall protection.

Chairman Schultz, Mr. Warren, and Mr. Byrne discussed the propriety of weighing evidence in a Commission meeting and ADOSH's burden to bring a *prima facie* case to the Commission.

Commissioner Orchard noted the fact that the employer had provided sufficient protective equipment to the employees. That the employees were utilizing some of the safety equipment as well as quick abatement, was evidence that the employer met its obligation.

Commissioner Orchard, Mr. Warren, and Mr. Byrne discussed disciplinary actions taken against the offending employees.

Chairman Schultz discussed the Roofers' Alliance's role in disciplining employees who commit safety violations. Mr. Cooper explained the employer's disciplinary process.

Vice Chair Hennelly moved to approve the citation and proposed penalty as presented and Commissioner Krenzel seconded the motion. Commissioner Orchard noted that she did not believe ADOSH had made a *prima facia* case. Chairman Schultz, Vice Chair Hennelly, and Commissioner Krenzel voted in favor of the motion. Commissioner Orchard opposed the motion. The motion passed.

Whitton Framing, Inc.  
49 N Mesa Dr  
Mesa, AZ 85214

Referral  
Years in Business: 11  
Empl. Covered by inspection: 4

Site Location: 20338 E Reins Rd  
Queen Creek, AZ 85142  
Inspection No: W0250-1244340  
Inspection Date: 07/03/2017

REPEAT SERIOUS – Citation 1 - Item 1 – Roof: Two subcontractor employees were engaged in framing activities with unprotected sides and edges at approximately 9ft above a lower level and were not protected from falling by a guardrail system, safety net system, or personal fall arrest system. (29 CFR 1926.501(b)(13)).

The Whitton Framing, Inc. was previously cited for a violation of this occupational safety and health standard or its equivalent standard 1926.501(b)(13) which was contained in ADOSH inspection number 1106943, Citation Number 1, Item Number 1 and was affirmed as a final order on 8/3/2016 with respect to a workplace located at 2849 E Detroit St., Gilbert, AZ 85233.

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

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

Chairman Schultz and Mr. Warren discussed Photograph # 1, the depicted employee's lack of a harness or anchor, and the potential consequences of the employee's actions.

Chairman Schultz and Mr. Warren discussed the employee's proximity to power lines.

Chairman Schultz, Commissioner Orchard, and Mr. Warren discussed roofing and framing companies' differing roles and whether the employer was part of the Roofers' Alliance.

Commissioner Krenzel noted that the report indicated that the employer was a roofing contractor, but that it is actually a registered framing contractor.

Mr. Warren discussed the Photographs # 1 and # 2.

Commissioner Orchard and Mr. Warren discussed the presence of a supervisor onsite, the employees' failure to clip in, and the project manager's acknowledgement of the failure to use fall protection and the roof height.

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 Orchard, and Commissioner Krenzel voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Warren discussed the Tucson, Phoenix, and Yuma Safety Summits.

Mr. Warren introduced his wife Jennifer.

Ms. Dimas confirmed Commission meeting dates through November 2017. Mr. Ashley provided an update for the Tucson Commission meeting and the Raytheon VPP celebration.

Public Comment.

Mr. Warren and Ms. Coulter discussed the location of the Phoenix Safety Summit.

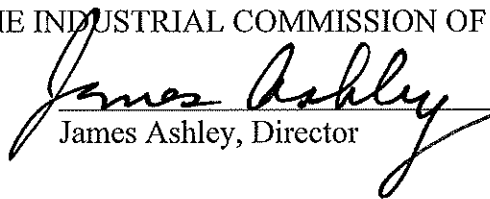
There was no other public comment.

Commissioner Orchard, Mr. Ashley, and Ms. Dimas discussed the itinerary for the Commission's Tucson visit.

Commissioner Orchard moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner Orchard, and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:05 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:

  
Kara Dimas, Commission Secretary

THE INDUSTRIAL COMMISSION OF ARIZONA

800 West Washington Street  
Phoenix, Arizona 85007

COMMISSION MEETING

Date: September 21, 2017  
Time: 1:00 p.m.  
Location: Auditorium

ATTENDEES ARE INVITED TO SIGN IN

PLEASE PRINT

NAME	REPRESENTING
FRANK GALASSO	Local 1912
Frank Ruic	Local 1912
Raymond Dominguez	Local 1912
Ruben Lopez	Local 1912
Ricardo Serrano	Local 1912
Miguel Garcia	Local 1912
STANLEY CRISHER	LOCAL 1912
Dean Lott	Local Union # 1912
Curt Hummel	1912 - Union
Shannon Ellis	Carpenters Union Local 1912

ANYONE WISHING TO ADDRESS THE COMMISSION, PLEASE  
FILL OUT A "REQUEST TO SPEAK" FORM

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Teresa Torres	Local 1912
Jose Mata	Local 1912
Ruben Castillo	Local 1912
Edgar Castillo	Local 1912
Oscar Castillo C.	Local 1912
Juan Garcia	Local 1912
<del>Pete Gonzalez</del>	1912 Local
<del>[Signature]</del>	UNION 1912 Arizona
Des Madub	1912
Ron Westlake	Local 1912

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<u>Rene Flores</u>	<u>Carpenters Union 1912</u>
<u>ROMAN YBARRA</u>	<u>1912</u>
<u>Alfredo Figueroa</u>	<u>1912 union</u>
<u>ROBERT QUINONES</u>	<u>1912</u>
<u>DAMON GIBSON</u>	<u>1912</u>
<u>Casey Leising</u>	<u>1912</u>
<u>William Leistman</u>	<u>1912 <sup>Carpenters</sup> Union</u>
<u>FRANK GALASSO</u>	<u>LOCAL 1912</u>
<u>JENNIFER WATKIN</u>	<u>SELF</u>
<u>STEVE PASKO</u>	<u>LOCAL 1912</u>

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Michael White	Carpenters Union 1912
G. M. Rodriguez	Carpenters Union 1912
Jose R Otero Jr	LOCAL 1912
Charles Bartolozzi	Local 1912
W. S. [Signature]	Local 1912
Josh Weller	Local 1912
Roberto Sanchez	Local 1912
Sheldon L	Local 1912
Stephen Floyd	Carpenters 1912

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Ruben C. Gonzalez	Carpenter Local #1912
JOHN BAULER	CARPENTERS LOCAL 1912
Enrique Cervantes	Carpenters Local 1912
DANIEL MIRANDA	CARPENTERS LOCAL #1912
PABLO ARELLANO GOMEZ	CARPENTER LOCAL 1912
Luis Cervantes	Carpenter Local 1912
Francisco Gonzalez	Carpenter 9-2017
Marco Haro	Carpenter Union Local 1912
Perfecto Cortez	Carpenter Union Local 1912

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Jorge Acuña	E+K Local 1912
FELIX A. YEOMANS	CARPENTER LOCAL 1912
Samual D. Jim	Carpenter Local 1912
Robert DeHn	Local 1912
FEREN SOBERANES MORALES	Local 1912
ROGER ANTILLON	LOCAL 1912
Gilbert Quintana	"1912
Arvin Leyva	Carpenters 1912
Alberto Sanchez	Carpenters 1912
Cesar Marrero	Carpenter 1912

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PETER MARTINEZ JR.	CARPENTERS LOCAL # 1912
SAM J. JIM	CARPENTER LOCAL # 1912
JOHN L. HALL	CARPENTERS LOCAL # 1912
CARLOS GALVAN	CARPINTER LOCAL # 1912
EFRAN BENLONO	carpinters local # 1912
Carlos Ortiz	Carpenters Local 1912
Anthony Camps	Carpenters Local 1912
Uriel Muñoz	carpenters local 1912
Daniel Esparza	Carpenters local 1912
Hector Cervantes	CARPENTERS LOCAL 1912
JOSE A-AVA	LOS-CARPINTEROS-1912

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Rod Hemphill	Local 1912
PERLINDO CUNHAZIN	LOCAL 1912
Taher Harydai	Local 1912
Leander A. Small	Local 1912
Sheldon Mamehifo	Local 1912
Rich McCauley	Local 1912
Trae Baca	Local A12
Alfredo Sanchez	loc. 1912

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NAME	REPRESENTING
CHRISTOPHER DEANDA	AZ CARPENTERS 1912
JUAN LUVA	AZ CARPENTERS 1912
Luis A. Rodriguez J.R.	AZ Carpenters 1912
Bob Mann	AZ " "
Ethan Novak	" " "
Victor Solomon	AZ Carpenters 1912

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RONALD K HEILMAN JR	LOCAL #1912 ARIZONA CARPENTERS
HOMERO OLIVA	LOCAL 1912
TONY DE LEON	LOCAL #1912
BRETT BROOKS	LOCAL #1912
JOHN COLE	
FABIAN SANDOZ	LOCAL 1912

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<u>MICHAEL A. KNOX</u>	<u>AZ. CARPENTERS 1912</u>
<u>Ramon Palacios</u>	<u>AZ Carpenters 1912</u>
<u>JOSE ARROMANIZ</u>	<u>AZ CARPENTERS 1912</u>
<u>Steve Friesse</u>	<u>AZ Carpenters 1912</u>
<u>DM Stazzone</u>	<u>AZ Carpenters 1912</u>
<u>Joseph Kobel</u>	<u>Az Carpenters Local 1912</u>
<u>Kathy Kobel</u>	<u>AZ Carpenters Union Local 1912</u>
<u>RAY BYRNE</u>	<u>AMERICA ROOFING</u>
<u>Scott W. Hayes</u>	<u>America Roofing</u>
<u>Bill Cooper</u>	<u>America Roofing</u>
<u>Manuel "Manny" Salcido</u>	<u>SWREC</u>

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William Ruiz	AZ Carpenters 1912
Alejandro Bustamante	AZ Carpenter 1912
Kerry Jackson	Carpenters 1912
JC Acuña	Carpenter 1912
Koss H. Goff	CARPENTERS 1912
R. Katow	Carpenter 1912
CHRIS JUAREZ	CARPENTER LOCAL 1912
Arnaldo Espinoza	Carpenter local 1912
JORGE PINERO	Carpenters local 1912 AZ
Emmanuel Lopez	ISUMCP-ED
Simon Herrera	Bumped
ANYONE WISHING TO ADDRESS THE COMMISSION, PLEASE FILL OUT A "REQUEST TO SPEAK" FORM	Carpenters local 1912 A.

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Manuel Pvez	1912
Ryan Romero	Carpenters local 1912
Stefan Garibaldi	Local 1912
SYMON ZAHARAKIDKI	LOCAL 1912
Taher Hagdari	local 1912
DANCEE MIRANDA	LOCAL 1912
JOSE SOTO	
Steve Singletary	Carpenters
Ronald Mills	Local 1912
Matt Guzman	Local 1912

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William Ruiz	CARPENTERS 1912
Wayne Klaus	" "
Aaron Ricketts	Carpenters 1912
Jose Munoz	Carpenters 1912
Steve Adams	Carpenters 1912
Cristian Sanchez	Carpenters 1912
Terrell Hester	Carpenter 1912
Jose Doria	CARPENTER 1912
Dante Jose	CARPENTER 1912
HERIBERTO HERRERA	CARPENTER 1912
YOSHIO U ROMAN	Carpenter 1912

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Enrique Ramirez	Carpenters
Jose Rodriguez	Carpenters Local 1912
GARY BRADY	" "
John Mancharik	SWCTF
Jessica Acenas	S+W
Emily Bregal	AZ Daily Star

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