

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, January 5, 2012 – 1:00 p.m.

Present:	Brian Delfs	Chairman
	David Parker	Vice Chairman (video conference)
	John A. McCarthy, Jr.	Member
	Kathleen Oster	Member
	Susan Strickler	Member
	Laura McGrory	Director
	Andrew Wade	Chief Legal Counsel
	Darin Perkins	Director, ADOSH
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Delfs convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance were Eda Barolli of Snell & Wilmer and Jeff Homer of General Dynamics.

Approval of Minutes of December 15, 2011 Meeting

The Commission unanimously approved the Minutes of December 15, 2011 on motion of Mr. McCarthy, second of Ms. Strickler.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C10/11-1039 Great White Moving, Inc.
2. 2C11/12-1251 Oasis RV Center, Inc.
3. 2C10/11-1589 RPR Enterprises, Inc. dba Entrée Restaurant
4. 2C10/11-1430 Tomas Lopez & Maria Isabel Villegas, H/W
dba Tom Lopez Landscaping
5. 2C11/12-0597 Value Shuttle of Arizona, L.L.C.
6. 2C11/12-1044 Wintenamerica Gilbert, LLC
7. 2C11/12-1252 World Express Service, LLC

Chairman Delfs asked if any of the listed items needed to be removed from the consent agenda. Secretary Hilton stated that there were not. The Commission unanimously approved the items on the consent agenda on motion of Ms. Strickler, second of Ms. Oster.

Discussion & Action regarding Discrimination Complaint #11-02: Craig Cress vs Tri-City Property Management, Request to Appeal

Discussion & Action regarding Establishment of Appeal Procedure for Discrimination Complaints Filed under A.R.S. §23-425

Darin Perkins advised that Mr. Cress's discrimination complaint was previously presented to the Commission at which time they unanimously voted not to pursue the complaint. Mr. Cress has requested that he be allowed the opportunity to appeal the decision. Mr. Perkins summarized his conversations with Mr. Cress regarding his request for reconsideration. He reviewed the case file and the additional information submitted by Mr. Cress. He also explained that while there is currently no formal reconsideration process for discrimination complaints, Federal OSHA has implemented changes that requires the adoption of reconsideration procedures by State plans. He recommended that Mr. Cress be extended the opportunity to address the Commissioners. Discussion followed regarding the current complaint process and the recent requirement for all states to implement a reconsideration process. Ms. McGrory explained the appeals process Federal OSHA has in place. She also explained that staff is still reviewing the matter and will present options to the Commissioners at a later date. Ms. McGrory and Mr. Perkins responded to questions from the Commissioners regarding the establishment of a formal procedure. Chairman Delfs stated that, without objection, the issue of establishment of a reconsideration procedure for discrimination complaints will be held until staff can bring back recommendations to the Commission. With regard to Mr. Cress's complaint, Mr. Delfs stated as there is no formal process in place right now, he stated that Mr. Cress will be given the opportunity to attend a future meeting and address the Commission. He emphasized, however, that affording Mr. Cress this opportunity is not to be interpreted as establishment of a formal reconsideration procedure. The new procedure to be adopted in the future will dictate that. In response to a question from Ms. McGrory, Mr. Delfs stated that the employer should be notified that this matter is being placed on the agenda. In response to a question from Ms. Oster, staff explained that the issue presented by Mr. Cress's request will be whether the Commission should reconsider their prior decision not to pursue Mr. Cress's complaint.

Discussion & Action of Proposed OSHA Citations & Penalties

Rodeo Mechanical, Inc.
 3951 E. Michigan Street
 Tucson, AZ 85714

Planned
 Yrs/Business - 11
 Empl. Cov. by Insp. - 4

Site Location: 2636 E. Broadway Blvd., Tucson, AZ 85714
 Inspection #: A9339/315978445
 Insp. Date: 09/16/11

SERIOUS - Citation 1, Item 1 - Employees working at the edge of the roof at an approximate height of 25 feet and throwing evaporative cooler parts off the roof were not utilizing an enclosed chute of wood, or equivalent material (1926.252(a)).

(No inspection history in the past three years.)

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS - Citation 1, Item 2 - Employees working at the edge of the roof lowering an evaporative cooler and throwing cooler parts off the roof at an approximate height of 25 feet were not provided with any fall protection (1926.501(b)(1)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS - Citation 1, Item 3 - Employees who were working at the edge of the roof lowering an evaporative cooler and throwing cooler parts off the roof at an approximate height of 25 feet, and exposed to fall hazards were not trained to recognize the hazards of falling or in procedures to be followed in order to minimize those hazards (1926.503(a)(1)).

Div. Proposal - \$1,500.00
TOTAL PENALTY - \$3,750.00

Formula Amt. - \$1,500.00
TOTAL FORMULA AMT. - \$3,750.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,750.00 on motion of Mr. McCarthy, second of Ms. Oster.

Safford Valley Cotton Growers Cooperative, Inc.
120 E. 9th Street
Safford, AZ 85548

Planned
Yrs/Business - 53
Empl. Cov. by Insp. - 42

Site Location: 120 E. 9th Street, Safford, AZ 85548
Inspection #: T3633/316111558
Insp. Date: 11/09/11

SERIOUS - Citation 1, Item 1 - Employees worked from a 14 foot high platform to clean the cyclone separators when they were plugged, and the employees were not protected from falling by any acceptable fall protection system (23.403(A)). There was another instance of this violation.

(No inspection history in the past three years.)

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

GROUPED SERIOUS - The alleged violations that follow have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, Item 2(a) - The trash fan shaft had one section which was approximately one foot long and another section which was approximately six inches long which were not guarded (1928.057(c)(2)(ii)). There were 5 other instances of this violation.

Citation 1, Item 2(b) - The shaft end for the seed pump motor was not guarded (1928.57(d)(1)(vii)). There were 2 other instances of this violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

GROUPED SERIOUS - The alleged violations that follow have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, Item 3(a) - A guard on the lower left side of the gin stand was missing so that the drive shafts for the rollers and the saws were not completely guarded (1928.57(d)(1)(i)). There was 1 other instance of this violation.

Citation 1, Item 3(b) - The lower pulley of a V-belt drive at the back of gin stand #1 was not completely enclosed or guarded by location (1928.57(d)(1)(iv)).

Citation 1, Item 3(c) - The trash auger serving the east gin stands did not have a cover installed on the north end of the conveyor (1928.57(d)(2)(v)). There was 1 other instance of this violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$3,750.00

TOTAL FORMULA AMT. - \$3,750.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,750.00 on motion of Ms. Oster, second of Mr. McCarthy.

Specialty Communication Services LLC
6910 N. Camino Martin, Suite 120
Tucson, AZ 85741

Complaint
Yrs/Business - 3
Empl. Cov. by Insp. - 6

Site Location: Cortaro Farms Road f& I-10, Marana, AZ 85742
Inspection #: A9339/315847210
Insp. Date: 08/18/11

SERIOUS - Citation 1, Item 1 - Employees involved in a Hot Cut operation were not trained in the safety related work practices pertaining to their assignments (1910.332(b)(1)).
(No inspection history in the past three years.)

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS - Citation 1, Item 2 - The stand-by mode to the power switch for the DC side of the UPS was used as the sole means of attempting to de-energize all electrical AC and DC circuits (1910.333(b)(2)(ii)(B)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS - Citation 1, Item 3 - Specialty Communication Services did not verify that the circuits were de-energized prior to allowing an employee to reach inside of a UPS cabinet (1910.333(b)(2)(iv)(B)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS - Citation 1, Item 4 - Employees working on an energized uninterrupted power supply system were not provided with personal protective equipment (1910.335(a)(1)(i)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS - Citation 1, Item 5 - Employees were allowed to work on an energized UPS unit without ensuring that the unit was guarded by insulation or other means (1910.335(a)(2)(ii)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

NONSERIOUS - Citation 2, Item 1 - Illness logs were not completed for the years 2008, 2009 & 2010 (1904.1(a)(2)).

Div. Proposal - \$ 300.00

Formula Amt. - \$ 300.00

TOTAL PENALTY - \$12,800.00

TOTAL FORMULA AMT. - \$12,800.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. He advised that the staff recommendation for the first five citations was for the gravity based penalty with no adjustment factors since the violations directly related to the serious injury. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$12,800.00 on motion of Mr. McCarthy, second of Ms. Oster.

Thomas Lafette Moore and Meredith Moore,
husband and wife dba Tommy's Erection
19047 E. Mauna Loa Avenue
Glendora, CA 91740-4114

Complaint
Yrs/Business - 30
Empl. Cov. by Insp. - 4

Site Location: 6385 E. Golf Links Avenue, Tucson, AZ 85707
Inspection #: A9339/315847442
Insp. Date: 08/26/11

SERIOUS - Citation 1, Item 1 - The foreman working from a manlift at a height of approximately 15 feet above the ground level and wearing a full body harness with lanyard, was not attached to the lift's anchor point (1926.453(b)(2)(v)).

(One inspection in the past three years with two serious violations and one nonserious violation.)

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS - Citation 1, Item 2 - An employee climbed the guardrails of the scissor lift to the top of the 22 foot high canopy and worked on top of this canopy without any form of fall protection (1926.501(b)(1)). There was another instance of this violation.

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

TOTAL PENALTY - \$4,000.00

TOTAL FORMULA AMT. - \$4,000.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Mr. Parker questioned whether this employer had similar violations previously. Mr. Perkins advised that they have been cited for fall protection issues in 2009 and 2010. Based on this history, Mr. Parker requested that ADOSH conduct a site visit or two in the next year. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$4,000.00 on motion of Mr. Parker, second of Ms. Oster.

Sturm, Ruger & Company, Inc.
200 Ruger Road
Prescott, AZ 86301

Complaint
Yrs/Business - 22
Empl. Cov. by Insp. - 27

Site Location: 200 Ruger Road, Prescott, AZ 86301
Inspection #: Q8339/316108067
Insp. Date: 10/25/11

SERIOUS - Citation 1, Item 1 - A respiratory protection program was not implemented to protect employees from lead above the permissible exposure limit (1910.1025(f)(4)(i)).

(Three inspections in the past three years with one serious violation and six nonserious violations.)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS - Citation 1, Item 2 - Water bottles were permitted at a final inspection work station within the firing range (1910.1025(i)(1)).

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS - Citation 1, Item 3 - Employees are required to utilize the wash hygiene facilities when exiting the firing range. The personal hygiene cleaning solution station backs up during breaks and not all employees wash hands before breaks (1910.1025(i)(5)).

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

TOTAL PENALTY - \$6,750.00

TOTAL FORMULA AMT. - \$6,750.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$6,750.00 on motion of Ms. Oster, second of Ms. Strickler.

All Wood Treasures Company
2063 E. Cedar Street
Tempe, AZ 85281

Planned
Yrs/Business - 20
Empl. Cov. by Insp. - 14

Site Location: 2063 E. Cedar Street, Tempe, AZ 85281
Inspection #: F3189/316108224
Insp. Date: 10/28/11

SERIOUS - Citation 1, Item 1 - The employer did not establish an energy control program for the location, or energy control procedures for specific equipment in order to prevent the unexpected start-up or energization of equipment that could cause injury to an employee performing service or maintenance on the equipment (1910.147(c)(1)).

(Two inspections in the past three years with no violations.)

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS - Citation 1, Item 2 - One employee was operating a forklift to pick up debris from inside the building and had not received training regarding the safe operation of powered industrial trucks (1910.178(I)(1)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS - Citation 1, Item 3 - One forklift did not have a seatbelt installed (1910.178(p)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS - Citation 1, Item 4 - One bench grinder was lacking a work rest on both the abrasive stone wheel side of the grinder and the cloth buffer/polisher wheel side of the grinder (1910.215(a)(4)).

Div. Proposal - \$100.00

Formula Amt. - \$100.00

SERIOUS - Citation 1, Item 5 - One miter saw was not equipped with a guard below the base plate or shoe (1910.243(a)(1)(i)).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$3,100.00

TOTAL FORMULA AMT. - \$3,100.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,100.00 on motion of Mr. McCarthy, second of Mr. Parker.

Danco Plumbing, Inc.
6829 N. 55th Drive
Glendale, AZ 85311

Unprogrammed Related
Yrs/Business - 20
Empl. Cov. by Insp. - 19

Site Location: 20435 N. 7th Street, Glendale, AZ 85027
Inspection #: Y5457/316176114

Insp. Date: 11/29/11

SERIOUS – Citation 1, Item 1 – Two employees were working on a sub-floor 30' above the lower level without utilizing a fall protection system (1926.501(b)(13)).
(Four inspections in the past three years with two nonserious violations.)

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1, Item 2 – Two employees were using a 4' wide by 4' long roof access hole which was lacking a guardrail system to prevent a person from walking directly into the hole (1926.502(b)(13)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1, Item 3 – Two employees were working on a sub-floor 30' above the lower level, and had not received training to recognize the hazards of falling and the procedures to follow to minimize these hazards (1926.503(a)(1)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$4,500.00

TOTAL FORMULA AMT. - \$4,500.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$4,500.00 on motion of Ms. Oster, second of Mr. McCarthy.

Maricopa County Facilities Management
222 N. Central Avenue, Suite 1110
Phoenix, AZ 85004

Planned
Yrs/Business – 140
Empl. Cov. by Insp. – 100

Site Location: 501 S. 3rd Avenue, Phoenix, AZ 85003

Inspection #: N4762/315760751

Insp. Date: 08/03/11

GROUPED SERIOUS – The alleged violations that follow have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, Item 1(a) – The host employer did not evaluate if the space inside the air handler, from the air filter access door to the electric heater coils, was a permit required confined space (1910.146(c)(1)).

Citation 1, Item 1(b) – A danger sign identifying a Permit Required Confined Space and the hazard was not posted on the air filter access door of the air handler unit or information about the space inside of the air handler unit, of being a Permit Required Confined Space, from the air filter access door to the electric duct heater coils, was not effectively communicated to the employees (1910.146(c)(2)).

(One inspection in the past three years with one serious violation and one nonserious violation.)

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, Item 2 – The employer did not develop and implement a written permit space entry program for their employees to enter Permit Required Confined Spaces, such as the air handler unit (1910.146(c)(4)).

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, Item 3 – Maricopa County did not apprise APS Energy Services, Inc. of the electrical hazards inside of a Permit Required Confined Space involving the air handler unit (1910.146(c)(8)(ii)).

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, Item 4 – An employee was not provided with Permit Required Confined Space training for the safe performance of his assigned duties while working on the air handler unit (1910.146(g)(1)).

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, Item 5 – Two employees were not provided with safety related work practices training pertaining to their respective job assignments (1910.332(b)(1)).

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

GROUPED SERIOUS – The alleged violations that follow have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Citation 1, Item 6(a) – One employee did not place locks and/or tags on the disconnecting means used to de-energize the electrical hazard in a Permit Required Confined Space inside of the air handler unit (1910.333(b)(2)).

Citation 1, Item 6(b) – The employer had not provided a written lockout/tag-out procedure for the maintenance or servicing of the air handler unit (1910.333(b)(2)(i)).

Div. Proposal - \$2,250.00

Formula Amt. - \$2,250.00

SERIOUS – Citation 1, Item 7 – One employee was not provided with and did not use protective shields, protective barriers, or insulating materials designed to protect employees while working on or near energized equipment inside of a Permit Required Confined Space (1910.333(c)(5)).

Div. Proposal - \$ 2,250.00

Formula Amt. - \$ 2,250.00

TOTAL PENALTY - \$15,750.00

TOTAL FORMULA AMT. - \$15,750.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$15,750.00 on motion of Ms. Oster, second of Mr. McCarthy.

Discussion &/or Action regarding Budget and Operations of the Industrial Commission

Ms. McGrory stated that there was nothing new to report.

Discussion &/or Action regarding Legislation

Ms. McGrory stated that there was nothing new to report.

Announcements and Scheduling of Future Meetings

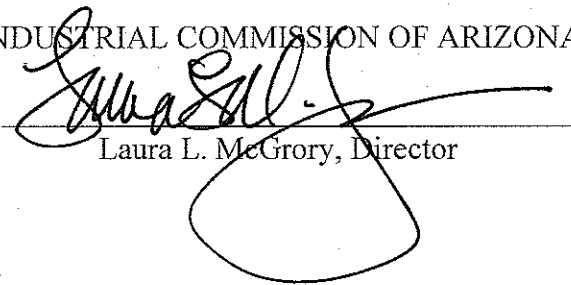
Ms. McGrory advised that she anticipates a meeting with Governor's office in the near future to discuss the Alliance Agreement with Federal OSHA and the Mexican Consulates.

Ms. Hilton reminded the Commissioners that the next Commission meeting is scheduled for January 11th, 2012. The Commissioners also firmed up the meeting date of January 25th.

There being no further business to come before the Commission and no public comment, Chairman Delfs adjourned the meeting at 2:07 p.m.

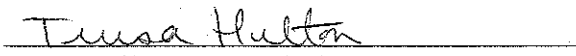
THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary