

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street

Conference Room 308

Phoenix, Arizona 85007

Wednesday, January 11, 2012 – 1:00 p.m.

Present:	Brian Delfs	Chairman
	David Parker	Vice Chairman
	Kathleen Oster	Member
	Susan Strickler	Member
	Laura McGrory	Director
	Kathryn Harris	Legal Counsel
	Darin Perkins	Director, ADOSH
	Jenny Mandeville	Compliance Officer
	Dean Bell	Compliance Officer
	Jeff Wilson	Compliance Officer
	Brandon Stowell	Compliance Officer
	Rob Stacy	Compliance Officer
	Robert Cooper	Compliance Officer
	Glenn Saavedra	Compliance Officer
	Ron Haley	Compliance Officer
	Javier DeEchavarri	Compliance Officer
	Michael Hawthorne	Chief Financial Officer
	Renee Pastor	Self Insurance Manager
	Kamen Kovatchev	Accounting
	Teresa Hilton	Commission Secretary

Chairman Delfs convened the Commission meeting at 1:00 p.m. noting a quorum present. Mr. McCarthy was not able to attend. Also in attendance was Eda Barolli of Snell & Wilmer.

Approval of Minutes of January 5, 2012 Meeting

The Commission unanimously approved the Minutes of January 5, 2012 on motion of Ms. Strickler, second of Mr. Parker.

Consent Agenda:

- a. Approval of Self Insurance Renewal Applications.
 1. Catholic Healthcare West
 2. Coca-Cola Refreshments USA, Inc.

- b. Approval of Proposed Penalties Against Uninsured Employers.
 1. 2C10/11-1894 Clean Out Arizona, L.L.C.
 2. 2C10/11-1343 Dorothy Fatt, a Single Woman, dba Serenity Agency & Transportation

3. 2C10/11-1398 Ehab Maddi & Rula Maddi, H/W dba Lee's Bistro aka The Bistro
4. 2C11/12-0700 Hermosillo Super Shuttles, L.L.C.
5. 2C10/11-1646 Loco Inc. dba Northwest Auto Transport
6. 2C10/11-1678 Negev Design – Build, L.L.C.
7. 2C10/11-1329 Phoenix Framing, Inc.
8. 2C11/12-0423 Learning Tree Preschool and Daycare, L.L.C.
9. 2C10/11-1087 Prescott Massage Therapy, L.L.C.
10. 2C10/11-1888 Portable Air II, L.L.C.

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 Mr. Parker, second of Ms. Oster.

Discussion & Action of ADOSH Discrimination Complaint

#12-06 George Valenzuela v Brothers Masonry - Darin Perkins presented a summary of the Division's investigation of a discrimination complaint filed by Mr. Valenzuela. In his complaint, Mr. Valenzuela alleges that he was discriminated against because the scaffold was unsafe and because Mr. Gibbs yells at everybody. In response to the complaint, the employer presented its position with respect to Mr. Valenzuela's termination.

Mr. Perkins presented a history of Mr. Valenzuela's employment and chronology of events and responded to questions from the Commission. The Division recommendation was not to pursue the matter since there was insufficient evidence to support a causal link between protected activity and adverse action. Following discussion, the Commission unanimously voted not to pursue the complaint on motion of Ms. Oster, second of Ms. Strickler.

Discussion & Action of Proposed OSHA Citations & Penalties

Johnson Refrigeration, Inc. – Mr. Perkins advised this was for discussion only and involved a fatality. The victim was one of the owners of a company hired for maintenance work on roof top HVAC equipment. There were no witnesses, but apparently the victim slipped and fell coming down the fixed ladder. No violations were noted or citations recommended.

Willmore Manufacturing, Inc.
3030 N. 30th Avenue
Phoenix, AZ 85017

Planned
Yrs/Business – 24
Empl. Cov. by Insp. – 23

Site Location: 3030 N. 30th Avenue, Phoenix, AZ 85017
Inspection #: I7163/316108331
Insp. Date: 11/02/11

SERIOUS – Citation 1, Item 1 – The employer did not develop and implement written lockout/tag out program procedures for maintenance personnel and or repair person(s) to prevent the release of stored energy during the performance of major and minor repair work, such as, but not limited to work on a press, radial saws and ironworker, etc. (1910.147(c)(1)).
(No inspection history in the past three years.)

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 2 – One press brake was lacking a guard at the point of operation (1910.212(a)(1)). There were twelve other instances of this violation.

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 3 – An ironworker was lacking a guard at the shear, angle iron shear and the punch press to prevent an employee from having any part of their body in the danger zone during the operating cycle (1910.212(a)(3)(ii)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 4 - One table saw was lacking a guard installed over the horizontal drive belt pulley to prevent accidental contact (1910.219(d)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 5 – One 120/208 volt electrical panel was lacking three circuit breakers and or blank out covers (1910.305(b)(1)).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

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 Mr. Parker, second of Ms. Strickler.

La Canasta Mexican Food Products, Inc.
3101 W. Jackson Street
Phoenix, AZ 85009

Complaint
Yrs/Business – 49
Empl. Cov. by Insp. – 103

Site Location: 3101 W. Jackson Street, Phoenix, AZ 85009

Inspection #: I7163/316108323

Insp. Date: 10/26/11

SERIOUS – Citation 1, Item 1 – One employee was working around a floor hole approximately 3' wide, 3' long and 25' high (1910.23(a)(9)).
(No inspection history in the past three years.)

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1, Item 2 – One employee was not trained on the proper use and care of the required fall protection equipment (i.e. full body harness and lanyard) (1910.132(f)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1, Item 3 –A written lockout/tagout program was not developed and implemented for maintenance personnel or repair person(s) to prevent the release of stored energy during the performance of repair work on equipment, such as, but not limited to cleaning and conducting maintenance on tortilla makers, ovens and mixers (1910.147(c)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1, Item 4 – One trough hoist was lacking an awareness barrier installed to prevent employees coming in contact with moving parts (1910.212(a)(1)).

Div. Proposal - \$1,400.00

Formula Amt. - \$1,400.00

SERIOUS – Citation 1, Item 5 – A fan was not fully guarded to prevent accidental contact with the rotating blade (1910.212(a)(5)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$8,400.00

TOTAL FORMULA AMT. - \$8,400.00

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 \$8,400.00 on motion of Ms. Oster, second of Ms. Strickler.

Discussion &/or Action regarding Legislation

Ms. McGrory stated that Scot Butler will present a report at the next Commission meeting on the 25th. She provided a brief summary of SB 1016 and the status of that bill.

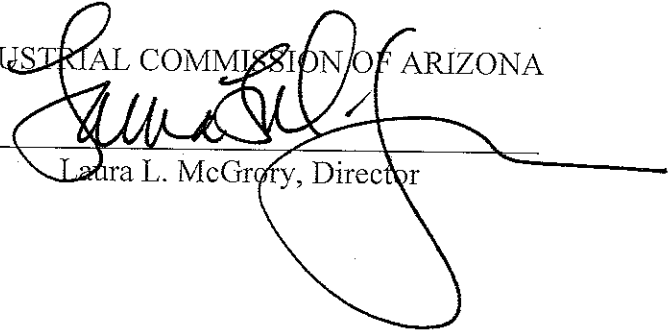
Announcements and Scheduling of Future Meetings

Ms. Hilton reminded the Commissioners that the next Commission meeting is scheduled for January 25th, 2012. The Commissioners also scheduled meetings for February 2nd and February 9th.

There being no further business to come before the Commission and no public comment, Chairman Delfs adjourned the meeting at 1:33 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Laura L. McGrory, Director

ATTEST:


Teresa Hilton, Commission Secretary