

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, February 23, 2012 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	Susan Strickler	Member
	Michael Sanders	Member
	Laura L. McGrory	Director
	Andrew Wade	Chief Legal Counsel
	Darin Perkins	Director, ADOSH
	Renee Pastor	Self Insurance Manager
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Mr. McCarthy was not able to attend. Also in attendance were Scot Butler, the agency's lobbyist, and Eda Barolli of Snell & Wilmer.

Approval of Minutes of February 9, 2012 Meeting

The Commission unanimously approved the Minutes of February 9, 2012 on motion of Mr. Sanders, second of Ms. Strickler.

Consent Agenda:

- a. Approval of Proposed Penalty Against Uninsured Employer.
1. 2C10/11-1564 Moises Segovia Franco & Patricia Desegovia
Alvarez, Husband & Wife dba
Segovia Flooring

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

Discussion & Action of Proposed OSHA Citations & Penalties

Inca Roofing, Inc.	Complaint
2430 E. Danbury Road	Yrs/Business – 10
Phoenix, AZ 85032-2425	Empl. Cov. by Insp. – 18
Site Location: 7111 North 75 th Avenue, Glendale, AZ 85303-2514	
Inspection #: Y5457/316313634	
Insp. Date: 1/19/12	

SERIOUS – Citation 1, Item 1 – 18 employees were working on a 5/12 pitched roof that was 18' above the lower level and had not received adequate fall protection safety training (1926.503(c)).

(No inspection history in the past three years.)

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS – Citation 1, Item 2 – 18 employees were working on a 5/12 pitched roof that was 18' above the lower level and were not protected from free-falling more than 6' or from contacting a lower level (1926.502(d)(16)(iii)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

TOTAL PENALTY - \$5,000.00

TOTAL FORMULA AMT. - \$5,000.00

Darin Perkins summarized the citations and proposed penalty as listed. In response to a question from Mr. Sanders, he explained how the gravity based penalty and adjustment factors are derived. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$5,000.00 on motion of Mr. Sanders, second of Ms. Oster.

Gilbert Munguia dba Munguia Masonry
1226 W. Sonora Road, Suite 208
Tucson, AZ 85745

Complaint
Yrs/Business – 25
Empl. Cov. by Insp. – 4

Site Location: 2636 E. Broadway Blvd., Tucson, AZ 85716

Inspection #: A9339/316232206

Insp. Date: 12/09/11

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

Citation 1, Item 1a – The five foot wide scaffold platforms, 18 feet high, were not fully planked (1926.451(b)(1)).

Citation 1, Item 1b – The scaffold platform planks did not extend over their support by six inches or more (1926.451(b)(4)).

Citation 1, Item 1c – Employees had to walk under the scaffold to access the building and there was no protection to these employees from falling objects (1926.451(h)(1)).

Citation 1, Item 1d – The trestle scaffold platform was placed on the top rung of the trestle supporting the platform (1926.452(n)(4)).

Citation 1, Item 1e – The scaffolds were erected without the supervision of a competent person trained in scaffold erection (1926.451(f)(7)).

(No inspection history in the past three years.)

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 2 – The top guardrail was the only guardrail installed on the scaffolds and awnings; and was not adequate in that the height of the top guardrail was only 30 inches above the walking platform. Mid-rails and end-rails were also missing (1926.451(g)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 3 – Employees working from the scaffold had not received any

training by persons qualified in the subject matter to recognize the hazards associated with the type of scaffold being used and to understand the procedures to control or minimize those hazards (1926.454(a)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 4 – Two employees were working from the awnings at a height of 18 feet above the lower level without any fall protection (1926.501(b)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, Item 5 – Employees working at heights of 18 feet above the lower level had not received fall protection training (1926.503(a)(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. At the request of Chairman Parker, Mr. Perkins explained grouping nonserious citations and stand-alone citations. Mr. Perkins also described the multi-employer worksite doctrine. Ms. Oster stated that since Mr. Sanders last served on the Commission, the Commission modified the threshold for citations that require Commission action. Mr. Perkins explained the previous process as well as the current process. 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. Sanders.

Discussion &/or Action regarding Legislation

Scot Butler provided a summary and bill status report and responded to questions from the Commissioners. With respect to SB 1441, he explained the substance of the bill and amendment, its impact on current enforcement of the residential fall protection standard, described his lobbying efforts and summarized a meeting that that he, Director McGrory, and Darin Perkins held yesterday with representatives of the Home Builders Association of Central Arizona (“HBACA”). Mr. Butler stated that HBACA requested the Commission’s position on having a state standard through legislation. Mr. Butler recommended that the Commission take no action on that request this week and that it may be appropriate to invite HBACA to address the Commission at next week’s meeting. Ms. McGrory conveyed HBACA’s concern that the Commissioners needed to be better educated regarding the process if Federal OSHA was to take over the state program. In response to a question from Commissioner Sanders, Chairman Parker explained the action taken last year by the Commission and the time frame within which the Commission was operating. The Commissioners also discussed the question of what action could Federal OSHA take against state plans that were not deemed as effective as the federal program. Further discussion continued regarding the impact of the bill and the position taken by the Commissioners. Mr. Butler presented a brief summary of the budget and the personnel reform bill.

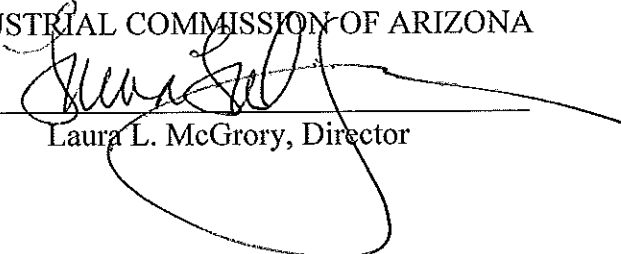
Announcements and Scheduling of Future Meetings

Ms. Hilton reminded the Commissioners that there are Commission meetings scheduled for March 1st and March 14th, 2012. Additional meetings were scheduled for March 21st and April 4th.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 2:10 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary