

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, October 3, 2012 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Susan Strickler	Member (telephonic)
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Kathryn Harris	Legal Counsel
	Darin Perkins	Director, ADOSH
	Jesus Maeda	I.H. Supv., ADOSH
	Mandy Murphy	I.H., ADOSH
	Renee Pastor	Self-Insurance Manager
	Michael Hawthorne	Chief Financial Officer
	Kamen Kovatchev	Self-Insurance
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:05 p.m. noting a quorum present. Also in attendance was Eda Barolli of Snell & Wilmer.

Approval of Minutes of September 26, 2012 Meeting

The Commission unanimously approved the Minutes of the September 26, 2012 meeting on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of ADOSH Discrimination Complaint

#12-02 Raymon Handy v Loomis Armored U.S. LLC – Darin Perkins stated that ADOSH presented this matter on September 19, 2012 and that the Commission requested ADOSH obtain additional information. He summarized the matter and identified the additional information the Commission had requested. With respect to whether other crossload incidents had occurred, Mr. Perkins stated that Loomis was unable to provide the information requested without reviewing the personnel files of every other employee. Mr. Perkins also described the practice of other armored car companies regarding the use of three man crews. Mr. Perkins stated that there is sufficient evidence of protected activity and employer knowledge of the exercise of that protected activity. He also identified the adverse action that occurred in the case. Mr. Perkins stated that he did not believe that there was sufficient evidence to support a connection between the adverse action and the exercise of protected activity. He stated that the Division recommendation continues to be not to pursue the complaint.

Mr. Sanders questioned how Loomis could not easily identify other crossload incidents since he believed that losses incurred by Loomis would be tracked. Ms. Oster stated that if branches are following the company policy they are to report incidents immediately to regional

and corporate management and questioned whether the request for information (and subsequent response) came from regional or corporate management. Mr. Perkins described the source of information regarding the difficulty in identifying crossload incidents. Mr. Parker stated the question is whether Mr. Handy would have received the same discipline without the exercise of protected activity? He also stated that Loomis offered to reinstate Mr. Handy after he complained that he was treated differently, but Mr. Handy refused the offer. Mr. Sanders stated the timing concerned him and he believed Loomis knew that Mr. Handy had filed the complaint to ADOSH. He stated he could understand Mr. Handy's concerns and the impact those concerns may have on his job performance. Following further discussion, Mr. Sanders moved to pursue the complaint. The motion died for lack of a second. The Commission voted not to pursue the complaint on motion of Mr. McCarthy, second of Ms. Oster. The motion passed four to one with Mr. Sanders in opposition. Chairman Parker thanked ADOSH staff for their work on this difficult case.

Discussion & Action of Application for Renewal of Self-Insurance Authority

Smith Pre-Cast, Inc. – Ms. Pastor provided additional information regarding the 2010 financial reports for U.S. Concrete and explained the differences between the information and the previously provided information. She advised that she has spoken with the company's Risk Manager and CFO who advised as of June 30, 2012 U.S. Concrete had a \$28 million retained deficit as opposed to the previously reported \$288 million. Ms. Pastor relayed Smith's reasoning for not having excess coverage. Ms. Pastor stated that the company is in the nonsubscriber program in Texas meaning that Smith does not have workers' compensation insurance for its operations in Texas. Following further discussion, the Commissioners agreed that additional information is needed and they requested Ms. Pastor to obtain the additional information for the Commission meeting scheduled for October 17, 2012. The Commission also expressed its desire that Smith representatives appear in person at the October 17th, 2012 meeting. Chairman Parker stated that this agenda item will be placed back on the October 17, 2012 agenda and the Smith representatives will be invited to address the Commission and that Ms. Pastor obtain any other information she felt was pertinent.

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 the agenda for the October 17, 2012 meeting will include the adoption of the state minimum wage for calendar year 2013.

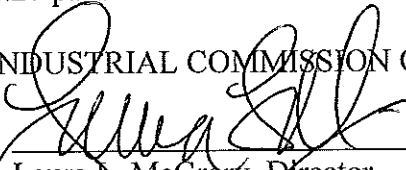
Ms. McGrory recommended that the Commission select a date for late November or early December for the annual stakeholders' meeting. She explained the process of providing stakeholders a forum to present suggestions for legislation. The Commission agreed that the stakeholders' meeting would be held on November 28, 2012 in the Commission auditorium.

The next Commission meeting is scheduled for Wednesday, October 17, 2012.

There being no further business to come before the Commission and no public comment,
Chairman Parker adjourned the meeting at 2:27 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:


Teresa Hilton, Commission Secretary