

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Wednesday, December 19, 2012 – 1:00 p.m.

Present:	David Parker	Chairman
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Susan Strickler	Member
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Darin Perkins	Director, ADOSH
	Renee Pastor	Self-Insurance Manager
	Jesse Atencio	Assistant Director, ADOSH – Tucson
	Larry Gast	Assistant Director, ADOSH - Phoenix
	Michael Hawthorne	Chief Financial Officer
	Kamen Kovatchev	Self-Insurance
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance was Scot Butler, the agency's lobbyist; Jason Weber of Snell & Wilmer; Stephanie Coulter of the Cavanagh Law Firm; and Jeff Homer of General Dynamics.

Chairman Parker requested that a moment of silence be observed in remembrance of those who lost their lives and their families in the recent school shooting in Connecticut.

Approval of Minutes of December 5, 2012 Meeting

The Commission unanimously approved the Minutes of December 5, 2012 on motion of Mr. Sanders, second of Mr. McCarthy.

Consent Agenda:

- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
1. 2C11/12-2921 Limberlost Investment Properties, L.L.C.  
dba Meineke Econo Lube N Tune
  2. 2C11/12-2255 Newsparkle Stone & Beads Import, L.L.C.
  3. 2C12/13-0275 Park Avenue Jewelers, Inc.
  4. 2C12/13-0313 Shady Pines Care Home, L.L.C.

Chairman Parker asked whether any items needed to be removed from the consent agenda. Secretary Hilton stated that there were not. The Commission unanimously approved the consent agenda on motion of Mr. McCarthy, second of Ms. Oster.



Div. Proposal - \$1,875.00

Formula Amt. - \$1,875.00

SERIOUS – Citation 1 - Item 4 – When monitoring revealed exposures above the PEL, periodic monitoring was not repeated every three months. (1910.1026(d)(2)(iv))

Div. Proposal - \$1,875.00

Formula Amt. - \$1,875.00

SERIOUS – Citation 1 - Item 5 – All feasible engineering controls were not used to reduce employee exposure to hexavalent chromium to the lowest achievable levels. (1910.1026(f)(1)(i))

Div. Proposal - \$1,875.00

Formula Amt. - \$1,875.00

TOTAL PENALTY - \$9,375.00

TOTAL FORMULA AMT. - \$9,375.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Kathy Oster questioned whether it was appropriate to apply the adjustment factor for good faith. Michael Sanders questioned why the employer did not have additional monitoring done when it was discovered they were over the PEL in the initial monitoring and asked if this matter had a willful aspect. Mr. Perkins responded to the questions. Following further discussion, the Commission removed the adjustment factor for good faith which resulted in penalties of \$2,250.00 for each item and a total penalty of \$11,250.00 on motion of Ms. Oster, second of Mr. McCarthy.

Lincolnshire Management, Inc.,  
dba Paddock Pools & Spas  
6525 E. Thomas Rd.  
Scottsdale, AZ 85251

Complaint  
Yrs/Business – 57  
Empl. Cov. by Insp. – 25

Site Location: 6525 E. Thomas Rd., Scottsdale, AZ 85251  
Inspection #: 316853282  
Insp. Date: 10/22/12

GROUPED SERIOUS – Citation 1 – Item 1a – An inappropriate apron was selected as PPE for exposure to hydrochloric acid. (1910.132(a))

Citation 1 – Item 1b – The employer did not conduct a hazard assessment to determine what PPE was necessary to protect employees from exposure to corrosive chemicals. (1910.132(d)(1))

Citation 1 – Item 1c – The employer did not provide training in the proper use of personal protective equipment. (1910.132(f)(1))

Citation 1 – Item 1d – Protective face and eye equipment was not selected and required for employees exposed to acids. (1910.133(a)(1))

Citation 1 – Item 1e – Protective hand equipment was not selected and required for employees exposed to acids. (1910.138(a))

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1 - Item 2 – A 220 volt outlet was improperly installed, with a cover missing, such that live parts could be contacted. (1910.303(g)(2)(i))

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$3,500.00

TOTAL FORMULA AMT. - \$3,500.00

Mr. Perkins summarized the citations and proposed penalty as listed. Chairman Parker asked if there was an industry association for the pool and spa business and if so, requested that ADOSH attempt an outreach effort on the dangers of chlorine. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,500.00 on motion of Mr. McCarthy, second of Ms. Oster.

Town of Thatcher Fire Department  
P.O. Box 670  
Thatcher, AZ 85552

Complaint  
Yrs/Business - 62  
Empl. Cov. by Insp. - 30

Site Location: 1150 N. College Ave., Thatcher, AZ 85552  
Inspection #: 316801752  
Insp. Date: 10/15/12

SERIOUS - Citation 1 - Item 1 - The department did not follow National Fire Protection Association standards for conducting live fire training exercises. The incident command system procedures were not followed, more than one interior fire was lit at one time, and firefighters entered the structure without a safety monitor posted to account for all entrants. (A.R.S. § 23-403(A))

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS - Citation 1 - Item 2 - A written exposure control plan was not established to eliminate or minimize employee exposure to blood or other potentially infectious materials. (1910.1030(c)(1)(i))

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$3,750.00

TOTAL FORMULA AMT. - \$3,750.00

Mr. Perkins summarized the citations and proposed penalty as listed and explained why the description of the first citation should be amended. Mr. McCarthy commended ADOSH staff for catching up with a quicker turn-around time. The Commission unanimously approved issuing the citations, as amended, and assessed the recommended penalty of \$3,750.00 on motion of Ms. Oster, second of Mr. McCarthy.

Citation 1 - Item 1 was amended as follows: The employer failed to provide a safe working environment in that employees were exposed to fire and burn hazards due to their participation in a live fire training exercise which was inadequately planned and carried out.

#### Discussion & Action regarding Request for Renewal of Self-Insurance Authority

Parker Hannifin Corporation - Ms. Pastor presented staff's renewal report along with current Standard & Poors', Moody's, Fitch, and Dunn and Bradstreet bond and credit ratings and responded to questions from the Commissioners. Administration is recommending renewal of workers' compensation self-insurance authority based on the company's financial stability and profitability, large size with assets exceeding \$11.1 billion, a clean audit report and a good credit rating. The Commission unanimously approved renewal of self-insurance authority on motion of Mr. Sanders, second of Mr. McCarthy.

Discussion &/or Action regarding the Development and Implementation of a Process for the Use of Evidence-Based Medical Treatment Guidelines under HB 2368

Ms. McGrory advised that under A.R.S. §23-1062.03, the Commission is required to provide a progress report to the Governor's House and Legislative leadership regarding the development and implementation of a process for the use of evidence-based medical treatment guidelines, where appropriate, to treat injured workers. This year, the progress report is required to be provided no later than December 31, 2012. Ms. McGrory provided the Commissioners a copy of the progress report and summarized that report.

In response to a question from Ms. Oster, Ms. McGrory explained her plan to address the recent decisions by two committee members to withdraw from the committee. She also explained that the Committee is in the information gathering stage, which will include review of the NCCI medical call data report that was recently provided to the Commission.

Announcements and Scheduling of Future Meetings


Ms. McGrory announced that Darin Perkins has accepted a position with the Central Arizona Project. Chairman Parker and the Commissioners congratulated Mr. Perkins on a job well done.

The next Commission meeting will be held on Wednesday, January 9, 2013. The Commission also scheduled meetings for February 6, 13, and 20. The meeting scheduled for the 20<sup>th</sup> may be moved to the 27<sup>th</sup> at a later date.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 2:55 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
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Laura L. McGrory, Director

ATTEST:

  
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Teresa Hilton, Commission Secretary