

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, May 1, 2013 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Susan Strickler	Member
	Michael G. Sanders	Member (telephonic)
	Laura McGrory	Director
	Andrew Wade	Chief Legal Counsel
	Jessie Atencio	Acting Director, ADOSH
	Renee Pastor	Self Insurance Manager
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance were Scot Butler, the agency's lobbyist; and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of April 17, 2013 Meeting

The Commission unanimously approved the Minutes of the April 17, 2013 General Session on motion of Mr. McCarthy, second of Ms. Oster.

The Commission unanimously approved the Minutes of the April 17, 2013 Executive Session on motion of Mr. Sanders, second of Ms. Strickler.

Approval of Minutes of April 19, 2013 Meeting

The Commission unanimously approved the Minutes of the April 19, 2013 General Session on motion of Mr. McCarthy, second of Ms. Oster.

The Commission unanimously approved the Minutes of the April 19, 2013 Executive Session on motion of Ms. Strickler, second of Mr. McCarthy.

Ms. McGrory asked that consideration of the General Session Minutes of April 17, 2013 be revisited since there had been some minor corrections on page three and described the changes. The Commission unanimously approved the Minutes as amended on motion of Mr. McCarthy, second of Ms. Oster.

Consent Agenda:

- a. Approval of Proposed Civil Penalties Against Uninsured Employers
 1. 2C12/13-0771 3 GORILLAS MOVING AND STORAGE, L.L.C.

2. 2C11/12-1779 BLACK DOG PROMOTIONS, L.L.C.
3. 2C12/13-0896 CLUB CONSULTANTS, L.L.C. DBA
FOX'S CABARET
4. 2C12/13-0891 FIRST STEPS EARLY LEARNING CENTERS, L.L.C.
5. 2C11/12-1206 GALLEGOS TRANSPORT, L.L.C.
6. 2C12/13-0077 GREAT WESTERN FINANCIAL SERVICES, INC.
DBA GREAT WESTERN HOME LOANS
7. 2C11/12-1461 HORTENCIA FIELDS ENTERPRISES, L.L.C.
DBA INCA'S PERUVIAN CUISINE
8. 2C12/13-1030 POOCHIE'S PET SALON, L.L.C.
9. 2C12/13-0615 POPPY'S PLACE, L.L.C.

Chairman Parker asked whether any items needed to be removed from the consent agenda. Secretary Hilton stated that item No. (a)(6) – Great Western Financial Services, Inc. dba Great Western Home Loans needed to be removed from the consent agenda. The Commission unanimously approved the remaining items on the consent agenda on motion of Ms. Strickler, second of Mr. McCarthy.

Andrew Wade advised that with regard to employer 2C12/13-0077 Great Western Financial Services, Inc. dba Great Western Home Loans, the employer has obtained workers' compensation insurance and staff is modifying its recommendation and now recommends that a \$500.00 civil penalty be assessed. The Commission unanimously assessed the recommended penalty of \$500.00 on motion of Mr. McCarthy, second of Mr. Sanders.

Discussion &/or Action regarding Legislation

Scot Butler advised the legislature is in a stalemate over Medicaid and the budget and provided a brief updated report of current legislative activity for HB 2485, SB 1148, and SB 1310. Mr. Butler responded to questions from the Commissioners.

Discussion & Action regarding Appointments to ADOSH Boiler Advisory Board pursuant to A.R.S. §23-474(2)

- Frederick Anderson (Reappointment)
- Raymond Choi
- Edward R. Emerson (Reappointment)
- Dean T. McCook (Reappointment)
- Terry R. Melot (Reappointment)
- Mike Rutledge (Reappointment)
- Zachary Schloss
- Earl Werner

Jessie Atencio advised that eight individuals have been recommended by the ADOSH Chief Boiler Inspector as qualified to serve on the Boiler Advisory Board. He explained the balance of the Board which consists of two public representatives, two industry representatives, two labor representatives and two owner/user representatives and responded to questions from the Commissioners. The Commission discussed the composition of the board, the definition of "labor," and "balanced representation." Chairman Parker stated that this matter would be tabled to allow staff to obtain and supply additional information.

Citation 1 - Item 1 (b) – For pipe railings, posts and top and intermediate railings shall be at least 1 ½ inches nominal diameter with posts spaced not more than 8 feet on centers. (1910.23(e)(3)(ii)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

SERIOUS – Citation 1 - Item 2 – Loading Dock: Employees operating a forklift and powered pallet jacks had not been subjected to a performance evaluation at least once every 3 years. (1910.178(1)(4)(iii)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

TOTAL PENALTY - \$5,000.00

TOTAL FORMULA AMT. - \$5,000.00

During the discussion of this agenda item and before the vote, Mr. Sanders was disconnected from the meeting. Mr. Atencio summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$5,000.00 on motion of Ms. Oster, second of Ms. Strickler.

Block Partners LLC dba Master Block – Due to a typographical error on the agenda, this item was held until next week.

Southam & Associates, Inc.

572 E. 1700 S

American Fork, UT 84003

Site Location: 41246 N. Barnes Pkwy, San Tan Pkwy, AZ 85140

Inspection #: N4762-316892926

Insp. Date: 01/15/2013

Complaint

Yrs/Business – 9

Empl. Cov. by Insp. – 3

GROUPED SERIOUS – Citation 1 - Item 1(a) – East side of building: An employee used a ladder jack scaffold that had been erected without the supervision and direction of a competent person qualified in scaffold erection, in that the plank had been positioned at a lengthwise slope of approximately 20 degrees, which is not in compliance with the plank's manufacturer's requirement that the plank must be level. (1926.451(f)(7)).

Citation 1 - Item 1(b) – East side of building: An employee used a ladder jack scaffold without being protected by a personal fall arrest system while working more than 10 feet above a lower level. (1926.451(g)(1)(i)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 2 – North Side of Roof: One employee working on the roof near the lower edges of the roof structure did not have a guardrail system or safety net system installed and was not using a personal fall protection system or equivalent, to prevent an approximate 10' fall hazard. (1926.501(b)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 – North side of building: Protruding reinforcing steel (i.e., rebar) which employees could fall onto, was not protected by appropriate caps, covers or other equivalent means to protect employees from the hazard created by impalement. (1926.701(b)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$3,750.00

TOTAL FORMULA AMT. - \$3,750.00

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

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

Washington Elementary School District No. 6 - Ms. Pastor presented staff's renewal report along with current Moody's and Standard and Poors bond ratings and a current Experian credit rating and responded to questions from the Commissioners. The District has an internal service fund and trust fund for workers' compensation that is funded at the expected level (55% confidence level). The District is posting security at 125% of their outstanding claim reserves for medical and compensation. She recommended renewal of the District's workers' compensation self-insurance authority based on its financial stability and a clean audit report. Following discussion, the Commission unanimously approved continuance of self-insurance authority on motion of Ms. Strickler, second of Ms. Oster.

Announcements and Scheduling of Future Meetings

The Commission scheduled the apportionment assessment hearing for June 19, 2013 and scheduled consideration of the assessments for September 4, 2013. The next meeting of the Commission is scheduled for Wednesday, May 8, 2013.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 2:00 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary