

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, November 14, 2013 – 1:30 p.m.

Present:	David M. Parker	Chairman
	Susan Strickler	Vice Chair
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	William Warren	Director, ADOSH
	Brett Steurer	Compliance Officer
	Karen Axsom	Director, Labor Dept.
	Michael Hawthorne	Chief Financial Officer
	Kamen Kovatchev	Tax Accountant
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:30 p.m. noting a quorum present. Also in attendance were Abbie Fink and Rachel Brockway of HMA Public Relations; Matt Saxe of Lang Baker & Klain, PLC; and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of November 6, 2013 Meeting

The Commission unanimously approved the Minutes of the November 6, 2013 Commission meeting on motion of Mr. Sanders, second of Ms. Oster.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C12/13-0157 ABC Marketing, Inc. dba The Blessing House
2. 2C13/14-0158 Affirmative Care, Inc. dba Affirmative Care Home
3. 2C13/14-0363 Bella Interests, L.L.C. dba Genesis Automotive
4. 2C13/14-0176 Collette's, Inc. dba Collette's Uniform Company
5. 2C11/12-1675 Efficient Cooling & Heating, LLC
6. 2C12/13-0647 First Source Movers, LLC
7. 2C12/13-1394 Sparkle Tech Window Washing LLC

b. Approval of Requests for Renewal of Self-Insurance Authority

1. Dole Food Company, Inc.
2. Macy's, Inc.
3. Purcell Tire & Rubber Company dba Purcell Western States
Tires, and dba Tires@Wholesale
4. Prudential Overall Supply, Inc.
5. Southwest Gas Corporation
6. YRC Inc., dba YRC Freight

Chairman Parker asked if any items needed to be removed from the consent agenda. Hearing none, the Commission unanimously approved the consent agenda items on motion of Ms. Strickler, second of Mr. Hennelly.

Discussion & Action of Proposed OSHA Citations & Penalties

LaBlonde Development Corporation
10025 E. Dynamite Blvd., Ste 101
Scottsdale, AZ 85262

Fatality/Accident
Yrs/Business – 30
Empl. Cov. by Insp. – 1

Site Location: 10632 E. Blue Sky Dr., Scottsdale, AZ 85262

Inspection #: J9925-317154102

Insp. Date: 05/21/2013

SERIOUS – Citation 1 - Item 1 – The employer did not develop, implement and maintain a written hazard communication program which includes employee training for employees who use hazardous chemicals. (1926.59(e)(1)).

Div. Proposal - \$600.00

Formula Amt. - \$600.00

SERIOUS – Citation 1 - Item 2 – On May 21, 2013 Pablo Rendon Romero fell from a ladder while painting, he later died from injuries received during the fall. Ladder training had not been provided for employees who use ladders. (1926.1060(a)).

Div. Proposal - \$7,000.00

Formula Amt. - \$7,000.00

TOTAL PENALTY - \$7,600.00

TOTAL FORMULA AMT. - \$7,600.00

Bill Warren and Brett Steurer summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Mr. Warren explained that the proposed gravity based penalty of \$7,000 for Citation 1 - Item 2 is based on the violation contributing to a fatality. Chairman Parker, Laura McGrory, and Andrew Wade commented on the difference between a violation being a direct cause versus a contributing cause and the Commission's approach in assessing penalties. Mr. Parker explained that he was comfortable with characterizing Citation 1 - Item 2 as a "serious" violation, but he was less comfortable with the conclusion that the violation caused or contributed to the fatality. The Commission discussed the potential penalty without a conclusion that the violation caused or contributed to a fatality and Mr. Steurer explained the process for calculating exposure and severity in determining the penalty amount. Following further discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty for Citation 1 – Item 1 and modified the penalty for Citation 1 – Item 2 to a gravity based penalty of \$5,000.00 with 70% adjustment factors and a penalty of \$1,500.00 for a total penalty of \$2,100.00 on motion of Mr. Sanders, second of Ms. Oster.

Metric Roofing, Inc.
3811 West Lower Buckeye
Phoenix, AZ 85009-6601

Planned
Yrs/Business – 20
Empl. Cov. by Insp. – 5

Site Location: 3359 Constitution Dr., Gilbert, AZ 85296

Inspection #: W3109-317173144

Insp. Date: 06/18/2013

SERIOUS – Citation 1 - Item 1 – Five employees were working on a roof approximately 22 feet above a lower level without the use of a fall protection system. (A.R.S. § 23-492(03)(A)).

Div. Proposal - \$4,000.00

Formula Amt. - \$4,000.00

SERIOUS – Citation 1 - Item 2 – The written fall protection plan did not have an updated, site specific fall protection plan which identified the competent person. (A.R.S. § 23-492.07(A)(1)).

Div. Proposal - \$1,600.00

Formula Amt. - \$1,600.00

TOTAL PENALTY - \$5,600.00

TOTAL FORMULA AMT. - \$5,600.00

Bill Warren summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. In response to a question from Commissioner Oster regarding previous history, it was determined that this company had fall protection violations in the past. Chairman Parker stated that the matter would be tabled pending review by the Legal Division regarding a possible willful classification.

Discussion & Action regarding Proposed Youth Employment Penalty

CL-1314-0006: Oak Craft Inc. – Karen Axsom advised that she recommends a \$600.00 civil penalty against the employer for employing a 17 year old youth in a position that required him to use a power driven saw in violation of Arizona law. The youth sustained a laceration to his left thumb which required sutures. Following discussion, the Commission assessed the proposed penalty of \$600.00 on motion of Mr. Sanders, second of Ms. Strickler. Mr. Parker noted from the photo provided that there was no guard on the saw blade. The Commission referred the matter to ADOSH for further investigation.

Discussion &/or Action regarding Media Relations

Laura McGrory introduced Abbie Fink and Rachel Brockway of HMA Public Relations and explained how the Commission handles media inquiries. Ms. Fink summarized the process, described how they assist the Commission in communicating with the media, and commented on the Commission's educational outreach efforts regarding safety issues.

Announcements and Scheduling of Future Meetings

Ms. McGrory stated that she has provided the Commissioners with a copy of the National Council on Compensation Insurance (NCCI) Medical Data Report, which contains Arizona average costs for Fee Schedule codes compared to country wide costs. She stated that this could be a future agenda item if the Commissioners wish further discussion and the NCCI could address the Commission and answer questions.

Chairman Parker stated that employers throughout the State work very hard to achieve SHARP and VPP status for their safety programs and described the events that some employers

have to celebrate their accomplishments. He stated that if the Commissioners' schedules allow, they should plan to attend the celebrations whenever possible.

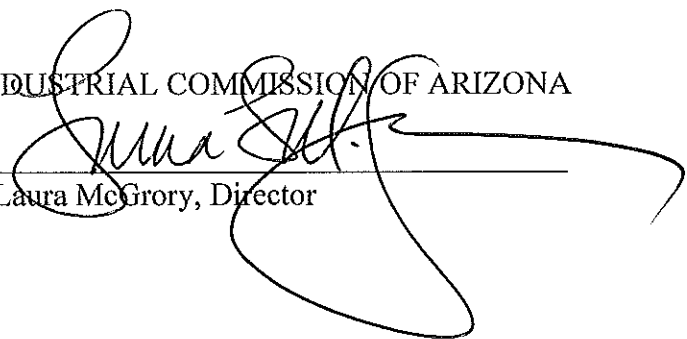
Mr. Sanders requested that a Commission meeting be held in Tucson. Chairman Parker agreed that the Commissioners should find a date that fits everyone's schedule and schedule a Commission meeting in Tucson.

Secretary Hilton reminded the Commissioners of the meeting schedule through the rest of the year and that the next meeting is scheduled for Wednesday, November 20, 2013 and will begin with the annual stakeholders' meeting in the Auditorium. The Commission discussed a tentative schedule of meetings for the first three months of 2014 and will discuss this further at the next meeting.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 2:35 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary