

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, February 27, 2014 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair (telephonic)
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Renee Pastor	Manager, Self Insurance
	William Warren	Director, ADOSH
	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, Commission lobbyist; Tom Carroll, Maricopa County; Matthew D. Saxe, PLC; Steve Weiss, Arizona Trial Lawyers' Association; Weston Montrose, Attorney; and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of February 19, 2014

The Commission unanimously approved the Minutes of February 19, 2014 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. 2C12/13-1094 A 2 Z Electronics and Welding, LLC dba
A2Z Electronics
2. 2C12/13-2000 Casol, Inc.
3. 2C13/14-0393 Centrik Roofing, LLC
4. 2C13/14-0574 Mibel Properties, L.L.C.
5. 2C13/14-0312 Montessori On Broadway Pre-School, LLC
6. 2SP13/14-0103 Navacorp Investments, PLLC dba
Explora Childcare
7. 2C12/13-1360 Rainbows L.L.C. dba

Rainbow Children's Center

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

1. City of Tempe

Chairman Parker stated that agenda item a (7) would be removed from the consent agenda. The Commission unanimously approved the remaining items on the consent agenda on motion of Ms. Oster, second of Mr. Hennelly.

With regard to item a (7) Rainbows L.L.C. dba Rainbow Children's Center, Andrew Wade advised that this employer has obtained workers' compensation coverage and staff is recommending a reduced penalty of \$500.00. The Commission unanimously assessed the recommended penalty on motion of Mr. Sanders, second of Ms. Oster.

Ms. Oster stated that regarding self-insurance staff summaries, she has asked staff to include the state where the self-insured employer's third party administrator is located.

Discussion &/or Action regarding Legislation

Scot Butler presented a summary of proposed legislation of interest to the Commission including House Bills 2094, 2221, 2361, 2394, 2455, 2487, and 2648 and Senate Bills 1075, 1181, and 1323 and responded to questions from the Commissioners. With regard to SB 1181, Mr. Butler stated that a drafting meeting was held between Commission staff, CopperPoint, and claimants' representatives. It appeared to be a productive meeting. However, since last Friday, there has been no further work done on the bill, and staff was advised this morning that nothing further will be done with regard to floor amendments. He explained why this puts the Commission in a difficult position and he recommended that the Commission provide a revised position statement on the bill. He also provided recommendations on the Commission developing its own amendment to the bill. Ms. McGrory recommended that if the Commission decides to proceed with drafting an amendment, that the A.R.S. § 23-966 assessment be reduced to 0.25%, with revised language to address when it would be triggered. She also recommended reinstating the 0.50% assessment that the bill eliminates from A.R.S. § 23-1065(A). Chairman Parker stated he has the same four concerns previously discussed and the Commissioners discussed these concerns. The Commission directed staff to proceed with the recommendations.

Steve Weiss addressed the Commission and presented some concerns with HB2455. He described the additional operational burdens that he believes will result from this bill. He stated that he hoped the Commission would take a position in opposition to the bill. In response to a request from Commissioner Sanders, Mr. Weiss stated that he would provide a written outline of his position and recommendations to the Commission.

Discussion & Action of Application for Self-Insurance Authority

The Home Depot, Inc. – Renee Pastor presented staff's report along with current Fitch, Moody's, and Experian bond and credit ratings. Administration is recommending approval due to their stable financial condition, a clean audit report, and acceptable bond and credit ratings. The Commission unanimously granted self-insurance authority on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action of OSHA Proposed Citations & Penalties

Glaz-Tech Industries, Inc.
 2207 E. Elvira Road
 Tucson, AZ 85756

Planned
 Yrs/Business – 21
 Empl. Cov. by Insp. – 40

Site Location: 2207 E. Elvira Road, Tucson, AZ 85756
 Inspection #: T3633-317588127
 Insp. Date: 1/27/2014

SERIOUS – Citation 1 - Item 1 – Tempering line: The operator of the edge sander located at the start of the glass tempering line had an 8-hour time-weighted average sound level exposure of 91.5 dBA (90 db measurement threshold), which exceeds the sound limit in Table G-16 of the standard. The company did not ensure that the employee working in this area used hearing protectors to reduce his exposure level to those allowed by the table. (1910.95(i)(2)(i)).

Div. Proposal - \$1,375.00 Formula Amt. - \$1,375.00

SERIOUS – Citation 1 - Item 2 – Glass Fabrication Area: The employer determined that the glass fabrication employees (fabricators) needed to wear sleeve and shoulder protectors, but the fabricators were not provided with, and were not using, this personal protective equipment. (1910.132(d)(1)(i)).

Div. Proposal - \$1,375.00 Formula Amt. - \$1,375.00

SERIOUS – Citation 1 - Item 3 –

a) Employees did maintenance work on machines installing glass tempering and cutting equipment, and the employer had not conducted a periodic inspection of the energy control (lockout/tagout) procedure in the last year. (1910.147(c)(6)(i)).

b) All employees who were required by the company’s Hazardous Energy Control Program to follow lockout/tagout procedures during the maintenance and repair of equipment had not been trained as required by the standard. (1910.147(c)(7)(i)).

Div. Proposal - \$1,375.00 Formula Amt. - \$1,375.00

TOTAL PENALTY - \$4,125.00

TOTAL FORMULA AMT. - \$4,125.00

Bill Warren summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Mr. Parker questioned the 15% good faith adjustment factor and this was discussed. Following discussion, the Commission unanimously approved issuing the citations and increased the penalty for each item to \$1,750.00 by removing the 15% good faith adjustment factor for a total penalty of \$5,250.00 on motion of Mr. Parker, second of Ms. Oster.

Chairman Parker congratulated Mr. Warren on his recent retirement after 30 years of Naval Service.

Announcements and Scheduling of Future Meetings

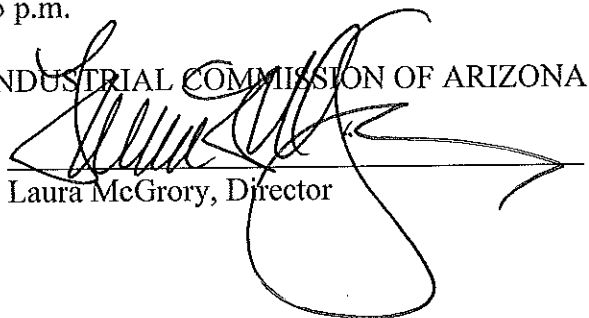
Chairman Parker confirmed that the dates already scheduled still worked for the Commissioners. He stated that the April 3, 2014 meeting will consist of interviews for

Administrative Law Judge applicants. Ms. Hilton stated that the next meeting is scheduled for Thursday, March 6, 2014.

There being no further business to come before the Commission and no further public comment, the meeting was adjourned at 2:05 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Laura McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary