

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, August 7, 2014 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair (telephonic)
	Michael Sanders	Member
	Joseph M. Hennelly, Jr.	Member (video conference)
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	William Warren	ADOSH Director
	Erik Anderson	ADOSH Compliance Officer
	Greg Beck	ADOSH Compliance Officer
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Accounting
	Kara Dimas	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance was Jason Weber of Snell & Wilmer.

Approval of Minutes of July 24, 2014 Meeting.

The Commission unanimously approved the Minutes of the July 24, 2014 General Session on motion of Ms. Strickler, second of Mr. Hennelly. Mr. Sanders abstained from the vote.

The Commission unanimously approved the Executive Session Minutes of the July 24, 2014 on motion of Mr. Hennelly, second of Ms. Strickler. Mr. Sanders abstained from the vote.

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. 2C13/14-0435 Ft Powersports, LLC dba Full Throttle Powersports
  2. 2C13/14-2366 Linda's Lounge, L.L.C. dba Linda's Lounge
  3. 2C13/14-2179 Randy James Roder & Teresa Gallo Roder, H/W, dba Gallo Automotive
  4. 2C12/13-1673 The Law Office of Gary Lassen, P.L.L.C.
- b. Approval of Requests for Renewal of Self-Insurance Authority.
1. Kiewit Corporation

2. Knight Transportation, Inc.
3. Nordstrom, Inc.
4. Prudential Overall Supply
5. Safeway Inc.
6. Textron Inc.
7. YRC Inc. dba YRC Freight

Chairman Parker asked if any agenda items needed to be removed from the Consent Agenda. Vice Chair Strickler recused herself from voting on item 3.a.4. Mr. Sanders moved the Consent Agenda with the exception of item 3.a.4. to be voted on separately and Mr. Hennelly seconded the motion. The Commission unanimously voted in favor of the motion. Mr. Sanders moved to approve item 3.a.4., seconded by Mr. Hennelly. Mr. Parker, Mr. Sanders and Mr. Hennelly voted in favor of the motion. Ms. Strickler abstained from the vote.

Discussion and/or Action regarding Legislation.

Ms. McGrory stated there was nothing new to report and requested that this standing item be removed from the agenda until further notice.

Discussion and/or Action regarding Residential Fall Protection and Federal OSHA's Notice of Initiation of Proceedings to Reject State Initiated Plan Change No. 133, and Reconsider Arizona's State Plan Authority under Section 18(e) of the Occupational Safety and Health Act. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(3) and (A)(4) to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation.

Mr. Wade stated there was nothing new to report at this time.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Diamond Allied Services, L.L.C.  
 dba CertaPro Painters of Scottsdale  
 2922 N 70<sup>th</sup> St Ste 100  
 Scottsdale, AZ 85251

Complaint  
 Years in Business: 16  
 Empl. Covered by Inspection: 5

Site Location: 2435 S 47<sup>th</sup> St  
 Phoenix, AZ 85034  
 Inspection No: T9350-317756336  
 Inspection Date: 6/02/2014

**SERIOUS** – Citation 1 - Item 1 – One employee who was operating a Genie Articulating Boom lift Model number GY / Z-60/34 Serial number Z6014-13547 was not trained in the recognition and avoidance of the hazards associated with the use of Articulating Boom lift. (1926.454(a)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

**SERIOUS** – Citation 1 - Item 2 – One employee was using fall arrest equipment with a ¼” snaphook which did not have locking type snaphook installed and the snaphook was engaged directly onto the rope of the employee. (1926.502(d)(6)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 3 – One employee’s fall arrest system in a Genie Articulating Boom lift, Model number GY / Z-60/34 Serial number Z6014-13547, was rigged in such a way that the employee in the lift platform could contact the ground in the event of a fall. (1926.502(d)(16)(iii)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 4 – One employee who was working at heights greater than six feet from a Genie Articulating Boom lift, the Company did not provide documentation of fall protection training for the employee who was exposed to a fall greater than six feet. (1926.503(a)(1)).

Div. Proposal - \$750.00

SERIOUS – Citation 1 - Item 5 – An employee utilizing a 28’ metal extension ladder make and model unknown, and the employer did not provide ladder training in the recognition and avoidance of unsafe conditions associated with the use of extension ladders. (1926.1060(a)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

TOTAL PENALTY - \$3,750.00

TOTAL FORMULA AMT. - \$3,750.00

Mr. Warren summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. Mr. Warren noted that ADOSH had cited this employer for three serious violations in 2010. Mr. Sanders noted that four of the violations were the same as cited in 2010 and asked if a repeat violation would be appropriate. Mr. Warren explained the elements of a repeat violation. Ms. McGrory asked if ADOSH had analyzed the matter for a potential wilful citation. The Compliance Officer who performed the inspection, Erik Anderson, summarized some of the facts from the inspection. Mr. Parker would like to have Legal review this for a wilful citation, Mr. Wade noted the inspection date and there is no time pressure with having Legal review the matter. Mr. Anderson commented on additional facts and stated that it appeared the franchise owner is attempting to avoid responsibility for safety for the workers. Mr. Parker stated he would like Legal to review the matter and instructed staff.

D.B. Chamberlin & Associates, L.L.C.

1050 E Southern Avenue, #D

Tempe, AZ 85282

Site Location: 2712 N 7<sup>th</sup> Street  
Phoenix, AZ 85006-1003

Inspection No: A7746-317695203

Inspection Date: 5/06/2014

COMPLAINT

Years in Business: 15

Empl. Covered by Inspection: 5

SERIOUS – Citation 1 - Item 1 –

- a) Four (4) employees were not protected from fall hazards while working on the roof of a building with unprotected sides or edges by use of a guardrail system, safety net system or personal fall arrest system. (1926.501(b)(1)).
- b) Four (4) employees were not protected from falling through holes in the roof by use of hole covers, personal fall arrest systems or guardrail systems erected around the holes. (1926.501(b)(4)(i)).
- c) Four (4) employees exposed to fall hazards had not been trained to recognize the hazards of falling and procedures to be followed to minimize those hazards. (1926.503(a)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1 - Item 2 –

a) Employees were utilizing a ladder that did not extend to the height of the roof to access the roof. (1926.501(b)(1)).

b) Employees utilized an A-Frame type ladder in its folded condition to access the roof. (1926.1053(b)(4)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1 - Item 3 – The employer, who owns the building and employs the exposed employees, did not determine if asbestos was present in the building prior to starting the building renovation project. (1926.1101(k)(2)(i)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$5,250.00

TOTAL FORMULA AMT. - \$5,250.00

Mr. Warren summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$5,250.00 on motion of Mr. Sanders, second of Mr. Hennelly.

Announcements and Scheduling of Future Meetings.

Ms. McGrory reminded those present that the Claims Seminar is next week and commented on posting a Quorum Notice as well as the Notice of Meeting and Agenda and that no Commission business will be discussed outside the Commission Meeting scheduled for Friday.

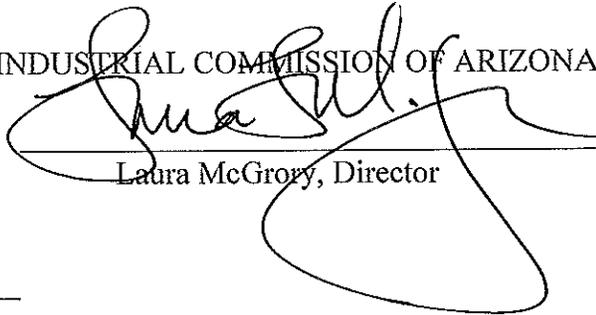
Mr. Parker stated that he and Larry Gast from ADOSH attended the Federal OSHA Stakeholders meeting in Washington last week regarding a potential rule on emergency response and preparedness. Mr. Parker commented that if any Commission members wanted to discuss that meeting, this topic could be added as an agenda item for a future meeting. He stated that in brief, federal OSHA is considering adopting a standard to regulate a group of workers over which federal OSHA does not have direct jurisdiction and that federal OSHA would then expect state plans such as Arizona to adopt those standards.

Mr. Parker inquired if there were any changes needed to the future meeting schedule and it appeared that no changes were needed at this time for September. The Commission discussed scheduling and topics for October 2014 meetings.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:30 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
Laura McGrory, Director

ATTEST:

  
Kara Dimas, Commission Secretary