MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, September 11, 2014 – 1:00 p.m.

Present: David M. Parker Chairman (video conference)
          Susan Strickler Vice Chair
          Michael G. Sanders Member
          Joseph M. Hennelly, Jr. Member
          Laura M. McGrory Director
          Andrew Wade Chief Counsel
          Sylvia Simpson Chief Financial Officer
          Renee Pastor Accounting Department
          William Warren ADOSH Director
          Christopher Brandon Compliance Officer
          Brian Downen Compliance Officer
          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 and Jeremy Bethancourt. Chairman Parker requested a moment of silence for the thirteenth anniversary of September 11th in honor of those that served and fell on that day.

Approval of Minutes of August 28, 2014 Regular Meeting and September 4, 2013 Regular Meeting.

Mr. Parker announced that the Executive Minutes for August 28, 2014 are not ready for signature and will be added to the next Notice of Meeting and Agenda. The Commission unanimously approved the Minutes of August 28, 2014 General Session on motion of Ms. Strickler, second of Mr. Sanders. The Commission approved the Minutes of September 4, 2014 General Session on motion of Mr. Sanders, second of Mr. Hennelly. The motion passed with three votes in favor and none against. Ms. Strickler was not in attendance on September 4, 2014 and did not vote.

Consent Agenda:

Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C13/14-1844 AZ Confident Courier Corporation, dba AZ Confident Courier
2. 2C14/15-0196 Bricks, Reynolds Family Restaurant & Lounge, L.L.C., dba Bricks
3. 2C13/14-0307 Kenton Equipment Service, LLC
4. 2C14/15-2176 Pedro Santos & Josefin Santos, h/w, dba Aidagua Cleaning Solutions
5. 2C11/12-2755 Randy Reid, a single man, dba City Wide Metals

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

1. Dole Food Company, Inc.
3. Macy's, Inc.

Chairman Parker stated that agenda items 3b(2) would 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. Hennelly.

Vice-Chair Strickler took over chair of the meeting for the following agenda item only.

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

Arizona Municipal Risk Retention Pool — Chairman Parker recused himself from consideration of this agenda item. Mr. Sanders asked about the four types of exposure, funding, the increase in claim, and tax plan A. Ms. Pastor responded to the questions. The Commission approved renewal of self-insurance authority on motion of Mr. Sanders, second of Mr. Hennelly with a vote of three in favor of the motion and none against. Mr. Parker did not participate in the vote.

Chairman Parker resumed chair of the meeting.

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.

Mr. Warren requested that Knight Transportation, Inc. dba Arizona Hay Press, L.L.C be removed from the agenda.

Cochise County Roofing and Referrals, LLC  Fatality/Accident
PO Box 1810 Years in Business: 3
Sierra Vista, AZ 85636 Empl. Covered by inspection: 1

Site Location: 10050 E Swallow Tail Ln
Hereford, AZ 85615

Inspection No: P0775-317772812
Inspection Date: 6/12/2014
SERIOUS – Citation 1 - Item 1 – Job site: A site specific written residential fall protection plan was not prepared and implemented to reduce or eliminate hazards for employees engaged in roofing activities six feet or more above lower levels. (A.R.S. § 23-492(07)(A)(1)).

Div. Proposal - $7,000.00  
Formula Amt. - $7,000.00

SERIOUS – Citation 1 - Item 2 – Job site: Three employees were not provided with fall protection training. (A.R.S. § 23-492(09)).

Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

SERIOUS – Citation 1 - Item 3 – Job site: The ADOSH office was not notified within eight hours of the death of an employee from a work-related accident. (1904.39(a)).

Div. Proposal - $1,500.00  
Formula Amt. - $1,500.00

TOTAL PENALTY - $10,000.00  
TOTAL FORMULA AMT. - $10,000.00

Mr. Warren summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. Mr. Warren identified and corrected two typographical errors in the materials supplied to the Commissioners regarding the cited statutes. Mr. Sanders asked the age of the employee that passed away and if the autopsy showed any other contribution to the cause of death and Mr. Warren responded to the question. Mr. Parker asked about citing in the alternative and Mr. Wade and Ms. McGrory responded to the question. Ms. Strickler asked why the employer did not contact ADOSH within the required 8 hours and Mr. Warren responded that the employer is a small company and the employer reportedly did not know of the requirement. Mr. Sanders asked whether any of the other employees witnessed the fall and Mr. Warren responded to the question. The Commission unanimously approved issuing the citation and assessed the recommended penalty of $10,000.00 on motion of Mr. Hennelly, second of Mr. Sanders.

Akowski Masonry, Inc.  
3363 W Sunset Rd  
Tucson, AZ 85752

Site Location: 6125 E Speedway Blvd  
Tucson, AZ 85712

Inspection No: B7667-317772960

Inspection Date: 6/18/2014

Planned  
Years in Business: 14

Empl. Covered by inspection: 6

SERIOUS – Citation 1 - Item 1 – South wall: Four employees were observed working from a tubular welded frame scaffold 18’ in height above the ground level, that did not have guardrails installed on all open sides of the platform. (1926.451(g)(4)(i)).

Div. Proposal - $2,000.00  
Formula Amt. - $2,000.00

SERIOUS – Citation 1 - Item 2 – South wall scaffold: Four employees who were observed working from a tubular welded frame scaffold 18’ in height, 5’ in width and 60’ in width, were not trained in the recognition of those hazards associated with the type of scaffold being used and the procedures to control and minimize those hazards. (1926.454(a)).

Div. Proposal - $2,000.00  
Formula Amt. - $2,000.00

TOTAL PENALTY - $4,000.00  
TOTAL FORMULA AMT. - $4,000.00
Mr. Warren summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. The Commission unanimously approved issuing the citation and assessed the recommended penalty of $4,000.00 on motion of Mr. Sanders, second of Ms. Stickler.

El Sol Construction, Inc.
2430 W Mission Ln Ste 8
Phoenix, AZ 85021

Site Location: 3300 W Camelback Rd
Phoenix, AZ 85017

Inspection No: N4762-317756344
Inspection Date: 5/30/2014

Unprogrammed Related Years in Business: 3.5
Empl. Covered by inspection: 50

SERIOUS – Citation 1 - Item 1 – East perimeter road: One employee was observed operating the SkyTrak Telehandler Forklift, Model 10054, Serial number 160048204, while not wearing the seatbelt. (1926.95(a)).

Div. Proposal - $2,000.00 Formula Amt. - $2,000.00

SERIOUS – Citation 1 - Item 2 – Building 48, 4th and 5th Floor Level Bridge Openings: Four employees were disassembling and re-installing guardrails at an approximately 6 foot wide floor edge without using any personal fall protective systems. (23-492(02)(A)).

Div. Proposal - $2,000.00 Formula Amt. - $2,000.00

TOTAL PENALTY - $4,000.00 TOTAL FORMULA AMT. - $4,000.00

Mr. Warren summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. The Commission unanimously approved issuing the citation and assessed the recommended penalty of $4,000.00 on motion of Mr. Sanders, second of Mr. Hennelly.

McDermott Construction, LLC
1734 W Williams Dr. Ste 5
Phoenix, AZ 85027

Site Location: 27000 N Alma School Rd
Scottsdale, AZ 85262

Inspection No: J7272-317783298
Inspection Date: 7/01/2014

McDermott Construction, LLC
1734 W Williams Dr. Ste 5
Phoenix, AZ 85027

Complaint Years in Business: 11
Empl. Covered by inspection: 7

SERIOUS – Citation 1 - Item 1 – Building D: Employees were conducting wood framing activities on top of a townhouse where they were working at heights above 6 feet and a fall protection plan had not been prepared and implemented which reduced or eliminated fall hazards for employees engaged in residential construction. (23-492(07)(A)).

Div. Proposal - $750.00 Formula Amt. - $750.00

SERIOUS – Citation 1 - Item 2 – Building D: An employee was not trained in the safe operation of a Lull rough terrain forklift model 844C-42, serial number 98W20P22-1581. (1910.178(l)(1)(i)).

Div. Proposal - $750.00 Formula Amt. - $750.00
SERIOUS – Citation 1 - Item 3 -

a) Building D: Employees were not using protective helmets for protection against impact or falling and flying objects, such as lumber being used for framing. (1926.100(a)).

b) Building D: Employees were not wearing personal safety eyewear with side shields to prevent impact injuries from nail gun related injuries. (1926.102(a)(1)).

Div. Proposal - $750.00  Formula Amt. - $750.00

SERIOUS – Citation 1 - Item 4 – Building D: A Truflex polyester 12’ sling, type E90, serial number 466579, was damaged to the extent red thread was exposed, which is an indicator installed by the manufacturer to signify the rigging should be immediately removed from service. (1926.251(a)(1)).

Div. Proposal - $750.00  Formula Amt. - $750.00
TOTAL PENALTY - $3,000.00  TOTAL FORMULA AMT. - $3,000.00

Mr. Warren summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. The Commission unanimously approved issuing the citation and assessed the recommended penalty of $3,000.00 on motion of Mr. Hennelly, second of Mr. Sanders.

Announcements and Scheduling of Future Meetings.

Ms. McGrory confirmed that November 13, 2014 is the date for the Stakeholder meeting so that a notice can be sent out and posted on the website. The Commission confirmed the date.

Ms. Dimas confirmed the Commission meeting dates through November.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:32 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

Laura L. McGrory, Director

ATTEST:

Kara Dimas, Commission Secretary