

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, October 8, 2014 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair (telephonic)
	Michael G. Sanders	Member (telephonic)
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Accounting Department
	William Warren	ADOSH Director
	Kara Dimas	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Commissioner Joseph M. Hennelly, Jr. was excused. Also in attendance were Jeff Homer of General Dynamics, and Jason Weber of Snell & Wilmer.

Approval of Minutes of September 24, 2014 Regular Meeting.

The Commission unanimously approved the Minutes of the September 24, 2014 Regular Session on motion of Mr. Sanders, second of Ms. Strickler.

Consent Agenda:

- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
1. 2C13/14-0057 AZ Supreme Flooring, LLC
 2. 2C13/14-0020 Cove Construction, LLC
 3. 2C13/14-1549 D'Antonio's Signature Day Spa & Ink, LLC dba D'Antonio's Day Spa
 4. 2C13/14-1122 Elderly Housing Care, Inc. dba Bedder Living
 5. 2C13/14-2135 Limoport Transportation, L.L.C., dba Limoport Transportation
 6. 2C13/14-0889 Morning Sun, LLC dba The Smokers Edge
 7. 2C13/14-1474 Nancy McDade, a Single Woman, dba New Nortons Country Corner
 8. 2C13/14-1067 The Donna Price Team, LLC dba Price Team Lending
 9. 2C14/15-0104 Wayne Hansen Family Trust, dba I-15 Storage
- b. Approval of Requests for Renewal of Self-Insurance Authority.
1. Banner Health
 2. Hyatt Corporation
 3. Mayo Clinic

4. Medtronic, Inc.
5. Phoenix Newspapers, Inc.

Chairman Parker stated that agenda item 3. a. 8. 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. Sanders.

Andrew Wade advised that The Donna Price Team, LLC has obtained workers' compensation insurance and staff is recommending a civil penalty of \$500.00 instead of staff's previous recommendation of a \$1,000.00 civil penalty. The Commission unanimously assessed the recommended penalty of \$500.00 against The Donna Price Team, LLC on motion of Mr. Sanders, second of Ms. Strickler.

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 and Potential Resolution regarding proposed rulemaking to A.C.C. R20-5-601 and A.A.C. R20-5-602 to adopt Federal Occupational Safety and Health rule amendments related to cranes and derricks in construction, 29 CFR 1926, and electric power generation, transmission, and distribution in both construction, 29 CFR 1926, and general industry, 29 CFR 1910.

Ms. McGrory stated this was added to the agenda to correct typographical errors in the Resolution. She explained that the references to the standards, 1926 and 1910, were flipped referencing the opposite. This does not affect the action taken on September 24, 2014 and no motion was needed.

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

Mega Metals, Inc.
 1325 N. 22nd Avenue
 Phoenix, AZ 85009

Referral
 Years in Business: 29
 Empl. Covered by Inspection: 10

Site Location: 1325 N. 22nd Avenue
 Phoenix, AZ 85009
 Inspection No: F3904-317695153
 Inspection Date: 5/01/2014

SERIOUS – Citation 1 - Item 1 – East yard: Suitable fire extinguishing equipment was not maintained at the site for the type of combustible material present (titanium), as only ABC fire extinguishers were provided, and titanium fires require a type D fire extinguisher. (1910.252(a)(2)(ii)).

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS – Citation 1 - Item 2 – East yard: Members of Mega Metals, Inc. management did not designate precautions to be followed in granting authorization to Reliable Plant Maintenance employees to proceed with their work in the form of a written permit. (1910.252(a)(2)(iv)).

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS – Citation 1 - Item 3 – East yard: Mega Metals, Inc. management did not ensure that movable fire hazards (bales of titanium, wrapped in plastic and coated in cutting oil) were taken to a safe place and removed from the area where welding and cutting activities were being performed. (1910.252(a)(2)(xiii)). There was one other instance of this violation.

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS – Citation 1 - Item 4 – East yard: Mega Metals, Inc. did not establish an area for welding and cutting that was based on the fire potentials of the plant facility. (1910.252(a)(2)(xiii)(A)).

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS – Citation 1 - Item 5 – East yard: Mega Metals, Inc. did not advise all contractors (Reliable Plant Maintenance, LLC) about flammable and combustible materials (bales of titanium chips coated in cutting oil and wrapped in plastic) of which they might have not been aware when welding and cutting. (1910.252(a)(2)(xiii)(D)).

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

TOTAL PENALTY - \$10,000.00

TOTAL FORMULA AMT. - \$10,000.00

Mr. Warren noted that this matter and the next had previously been before the Commission and ADOSH was asked to perform further review. He stated that the review has been completed. He described an error in the previous descriptions on some of the mounted photos and explained how ADOSH had corrected the descriptions. Mr. Warren summarized the citation and proposed penalty for Mega Metals as listed and responded to questions from the Commissioners. Following discussion, Mr. Sanders moved to issue the citations with the recommended penalty and Ms. Strickler seconded the motion. Mr. Parker commented on how titanium in certain forms can be an extreme fire hazard and asked Mr. Warren to initiate a discussion with the Fire Department regarding mitigating future risks. The Commission unanimously voted in favor of the motion.

Reliable Plant Maintenance, LLC

PO Box 26229

Tempe, AZ 85285

Unprogrammed Related

Years in Business: 3

Empl. Covered by inspection: 2

Site Location: 1325 N. 22nd Avenue

Phoenix, AZ 85009

Inspection No: F3904-317756047

Inspection Date: 5/15/2014

SERIOUS – Citation 1 - Item 1 – East yard, Mega Metals facility: Sufficient guards were not placed between bales of titanium product and hot work being performed adjacent to those bales. (1910.252(a)(1)(ii)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 – East yard, Mega Metals facility: Suitable fire extinguishing equipment was not maintained at the site for the type of combustible material present (titanium),

as only ABC fire extinguishers were provided, and titanium fires require a Type D fire extinguisher. (1910.252(a)(2)(ii)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 3

a) East yard, Mega Metals facility: Reliable management (owner or foreman) did not designate precautions to be followed in granting authorization to their employees to proceed with their work in the form of a written permit. (1910.252(a)(2)(iv)).

b) East yard, Mega Metals facility: Cutting or welding was permitted in areas near the storage of large quantities of exposed, readily ignitable bales of combustible titanium, wrapped in plastic and coated in cutting oil. (1910.252(a)(2)(vi)(D)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 4 - East yard, Mega Metals facility: The employer (Reliable) did not ensure that the supervisor for the hot work being performed at Mega Metals, Inc. determined the combustible materials present. (1910.252(a)(2)(xiv)(B)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$6,000.00

TOTAL FORMULA AMT. - \$6,000.00

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 citation and assessed the recommended penalty of \$6,000.00 on motion of Mr. Sanders, second of Ms. Strickler.

Pecos Employee Holding Corporation, Inc.
dba Archstone Care Center
1980 W Pecos Rd
Chandler, AZ 85224

Planned
Years in Business: 30
Empl. Covered by inspection: 30

Site Location: 1980 W Pecos Rd
Chandler, AZ 85224
Inspection No: Q6169-317820249
Inspection Date: 7/30/2014

SERIOUS – Citation 1 - Item 1 – Maintenance Area: One employee utilized a RYOBI table saw (model BTS12S, Serial XX084066933), which was not guarded by an adjusting hood that completely enclosed the portion of the saw blade above the work. (1910.213(d)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

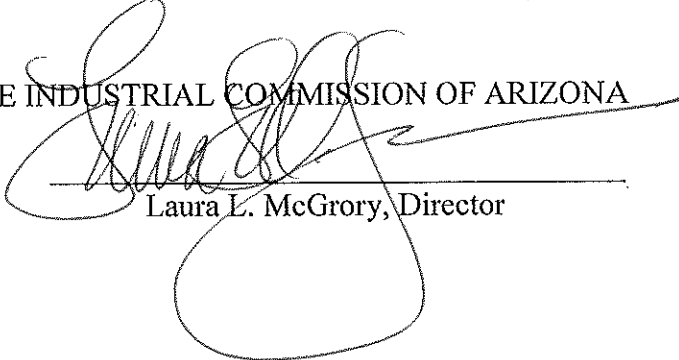
SERIOUS – Citation 1 - Item 2 –

a) Boiler Room: Northwest Area: Flexible metal conduit installed between two electrical control boxes was not used in a continuous length to provide effective continuity. (1910.305(a)(1)(i)).

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 L. McGrory, Director

ATTEST:



Kara Dimas, Commission Secretary