MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, January 22, 2015 – 1:00 p.m.

Present:

David M. Parker Chairman (video conference)
Michael G. Sanders Member
Joseph M. Hennelly, Jr. Member
Laura McGrory Director
Andrew Wade Chief Counsel
Sylvia Simpson Chief Financial Officer
William Warren ADOSH Director
Chris Brandon Compliance Officer
Kara Dimas Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present and that Ms. Strickler was unable to attend. Also in attendance was Scot Butler, Commission lobbyist, Ben Goldstein, Arizona Trial Lawyers, and Jason Weber of Snell & Wilmer.

Approval of Minutes of January 15, 2015 Meeting.

Chairman Parker identified a typographical error on page 4 noting that “and” should be changed to “had” in the first sentence “…owner of the building had hired workers to perform the work.” under Stone Kat Development. The Commission unanimously approved the Minutes of the January 15, 2015 as amended on motion of Mr. Sanders, second of Mr. Hennelly.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C12/13-0797 A Better Look Garage Door Company, L.L.C.
2. 2C13/14-1725 DeMoss Transportation, L.L.C.

Chairman Parker stated that agenda item a. 1. would be removed from the consent agenda and heard separately. The Commission unanimously approved the remaining items on the consent agenda on motion of Mr. Sanders, second of Mr. Hennelly.

Andrew Wade advised that A Better Look Garage Door Company, L.L.C. has obtained workers’ compensation insurance and staff is recommending a 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 A Better Look Garage Door Company, L.L.C. on motion of Mr. Hennelly, second of Mr. Sanders.

Discussion and/or Action regarding Legislation.

Scott Butler stated that Governor Ducey released his budget proposal and there does not appear to be any significant change for the Commission compared to the budget process a year ago.
He also summarized House Bills 2200, 2213, 2297, 2331, 2334, 2335, 2346 and responded to questions from the Commissioners.

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.

Ms. McGrory stated there was nothing to report at this time.

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

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Fatality/Accident</th>
<th>Years in Business</th>
<th>Empl. Covered by inspection</th>
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<tbody>
<tr>
<td>Fred Carries Contracts, Inc.</td>
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<tr>
<td>1222 E Van Buren St</td>
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<tr>
<td>Phoenix, AZ 85006</td>
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Site Location: 1222 E Van Buren St
Phoenix, AZ 85006
Inspection No: J7272-1007837
Inspection Date: 11/12/2014

SERIOUS – Citation 1 - Item 1 – Maintenance Shop, West Side: A North American Equipment two post automotive lift model number TP11KAC-TX, serial number P1789-002, did not have an annual maintenance inspection performed on it within the past 12 months. (A.R.S. § 23-403(A)).

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

SERIOUS – Citation 1 - Item 2 –

a) Maintenance bays, north side: A 1999 Dodge Stratus was being supported on the front passenger side by a US Jack Drednaut 3 ton jack stand, model number D-41609, serial number unknown, and the other wheels of the vehicle were not cribbed, blocked, or otherwise secured. (29 CFR 1910.244(a)(2)(iii)).

b) The employer did not establish an energy control program for the location, or energy control procedures for specific equipment in order to prevent the unexpected release of potential energy that could cause injury to an employee using the equipment. (29 CFR 1910.147(c)(1)).

Div. Proposal - $7,000.00
Formula Amt. - $5,000.00
TOTAL PENALTY - $7,750.00
TOTAL FORMULA AMT. - $5,750.00

Mr. Warren requested that this item be heard first and Chairman Parker approved the request. Mr. Warren summarized the investigation into the death of an employee and explained the citations and proposed penalty as listed. Chairman Parker commented on the standard practice for employers to perform an annual inspection of these types of lifts. Mr. Sanders asked about the cause of the accident and Mr. Brandon summarized some additional information from the investigation and his theory of what may have caused the accident. Mr. Sanders commented on the condition of the jack stand in the photographs taken by the police department. Following discussion, the Commission unanimously approved issuing the citation and assessed the recommended penalty of $7,750.00 on motion of Mr. Sanders, second of Mr. Hennelly.
SERIOUS – Citation 1 - Item 1 –

a) Dip tank area: Two employees were performing removal of corrosive chemical residue, and were not provided appropriate personal protective equipment (PPE) such as a chemically resistant bodysuit to prevent contact with a chemical hazard. (29 CFR 1910.132(a)).

b) Dip tank area: A hazard assessment for the removal of corrosive chemical residue and written certification was not completed to verify the selection and use of required personal protective equipment (PPE) to ensure the correct types of PPE were being used based on the hazards for the tasks performed. (29 CFR 1910.132(d)(1)).

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

SERIOUS – Citation 1 - Item 2 – Dip tank area: An emergency eyewash station providing 15 minutes of continuous water flow was not available to employees who work with sodium hydroxide. (29 CFR 1910.151(c)).

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

SERIOUS – Citation 1 - Item 3 –

a) Dip tank containment: Two employees dumped corrosive chemical residue material with a pH value of 12 into large totes and the totes were not labeled or marked with the identity of the chemical contained therein. (29 CFR 1910.1200(f)(5)).

b) Dip tank area: The employer did not furnish information and training to two employees who were exposed in the workplace to corrosive hazardous chemicals such as Sodium Hydroxide. (29 CFR 1910.1200(h)(1)).

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

TOTAL PENALTY - $4,500.00  TOTAL FORMULA AMT. - $4,500.00

Mr. Warren summarized the citation and proposed penalty as listed. Chairman Parker asked if the employer had a substantially appropriate hazmat program in place or if there were minor flaws in their program. Mr. Brandon responded to the question. Chairman Parker commented on the definition of what is a “chemical.” Following discussion, the Commission unanimously approved issuing the citation and assessed the recommended penalty of $4,500.00 on motion of Mr. Hennelly, second of Mr. Sanders.

Glendale Healthcare Associates LLC
dba Bella Vita Health and Rehabilitation Center
5125 N. 58th Ave
Glendale, AZ 85301

Site Location: 5125 N. 58th Ave
Glendale, AZ 85301

Inspection No: U9805-1014153
Inspection Date: 12/16/2014

Planned
Years in Business: 13
Empl. Covered by inspection: 90
SERIOUS – Citation 1 - Item 1 – Central Supply Room: The employer did not develop and implement a written lockout/tagout program to protect employees servicing energized equipment. (29 CFR 1910.147(c)(1)).

Div. Proposal - $1,750.00

Formula Amt. - $1,750.00

SERIOUS – Citation 1 - Item 2 – Kitchen: An eyewash station was not available for quick drenching or flushing for the eyes and body in the event of accidental contact with corrosive materials such as Hypochlorite solutions used for the dishwasher. (29 CFR 1910.151(c)).

Div. Proposal - $1,750.00

Formula Amt. - $1,750.00

SERIOUS – Citation 1 - Item 3 –

a) The employer did not have a list of all tasks and procedures in which occupational exposure occurs and that are performed by employees in job classifications listed in the employee determination section of the exposure control plan. (29 CFR 1910.1030(c)(2)(i)(C)).

b) The employer did not have the names and qualifications of persons conducting the training on their training records. (29 CFR 1910.1030(h)(2)(i)(C)).

c) The employer did not maintain a sharps injury log for the recorded needlestick injuries. (29 CFR 1910.1030(h)(5)(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. Following discussion, Mr. Sanders made a motion for the recommendation and Mr. Hennelly seconded. Chairman Parker asked about the hazards that ADOSH addresses with nursing facilities such as safe patient handling, which is one of the more significant injury generators. Mr. Warren responded that he would obtain information regarding the emphasis program and provide Chairman Parker with the details. Chairman Parker commented on respiratory protection, bloodborne pathogens, and hazard communication. The Commission unanimously approved issuing the citation and assessed the recommended penalty of $5,250.00.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. McGrory announced that in follow-up to information that was provided at last week’s meeting regarding the Governor’s Executive Order with respect to the Rulemaking Moratorium, the Governor’s Office has advised that the moratorium does apply to the Commission and that the exception language found in paragraph 3 of the Executive Order does not include the Commission because the Commission members are appointed by the Governor. She explained the impact of this on the Commission’s rulemakings.

Chairman Parker confirmed the Commission meeting dates scheduled through March 2015, adding dates for March 3rd and 4th for tentative ALJ interviews and confirming that dates for April 9th and 23rd so far for April and tentatively holding the 16th and 30th.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:56 p.m.
THE INDUSTRIAL COMMISSION OF ARIZONA

By

Laura L. McGrory, Director

ATTEST:

Kara Dimas

Kara Dimas, Commission Secretary