

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, March 4, 2015 – 8:15 a.m.

Present:	David M. Parker	Chairman
	Susan Strickler	Vice Chair
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member (video)
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Melinda Poppe	Chief Administrative Law Judge
	Kelly LeFevre	Human Resources Manager
	Kara Dimas	Commission Secretary

Chairman Parker convened the Commission meeting at 8:20 a.m. noting a quorum present. Also in attendance at 10:00 a.m. were William Warren, ADOSH Director; Michael Dodd, Controller; Renee Pastor, Accounting; Scot Butler, the Commission's lobbyist; and Jason Weber of Snell & Wilmer.

Executive Session under A.R.S. § 38-431.03(A)(1), (A)(2), and (A)(3) to Interview and Discuss Candidates for the Position of Administrative Law Judge

8:30 a.m. – 10:00 a.m. (approximately) Interview candidates

The Commission unanimously voted to move into Executive Session to interview and discuss candidates for the position of administrative law judge on motion of Mr. Sanders, second of Vice Chair Strickler. Executive Session Minutes are kept separately.

The Commission returned to General Session at 9:28 a.m.

Discussion and/or Action regarding the consideration of final candidates, salary, and appointment of Administrative Law Judge(s). The Commission may vote to discuss this matter in executive session pursuant to A.R.S. §38-431.03(A)(1), (A)(2), and (A)(3). A list of the names of the final candidates may be obtained by contacting the Commission's Executive Secretary. The Commission may defer a decision on this matter to a later date.

The Commission unanimously voted to move into Executive Session to consider the final candidates, salary, and appointment of Administrative Law Judge(s) on motion of Mr. Sanders, second of Vice Chair Strickler. Executive Session Minutes are kept separately.

The Commission returned to General Session at 9:51 a.m. Mr. Sanders moved to appoint final candidates numbers three and five with final candidate number two as the first alternate and candidate number one as the second alternate if either of the first two candidates do not accept an offer of appointment. Vice Chair Strickler seconded the motion. Chairman Parker asked Ms. McGrory about the process. Ms. McGrory stated that the appointments would be subject to

processing and review by the Arizona Department of Administration and the salary would be the same as the current Administrative Law Judges. Chairman Parker stated there was a motion and a second and asked if there was any other discussion. There was no further discussion and Chairman Parker called for a vote. The Commission unanimously approved the motion.

The Commission briefly recessed at 10:00 a.m.

The Commission returned to General Session at 10:05 a.m. Chairman Parker stated that Agenda Item number 4 would be addressed next and then Item 7.

Approval of Minutes of February 19, 2015 Regular Session and Executive Session Minutes for agenda items 2, 6 and 9.

The Commission unanimously approved the Minutes of the February 19, 2015 Regular Session meeting on motion of Mr. Sanders, second of Vice Chair Strickler. The Commission unanimously approved the Executive Session Minutes for Agenda Items 2, 6, and 9 of the February 19, 2015 meeting on motion of Vice Chair Strickler, second of Mr. Sanders.

Discussion and Action Regarding Requests to the Governor's Office for Approval Under Executive Order 2015-01 to Proceed with Rulemaking.

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.

United Subcontractors, Inc. dba Mesa Insulation Specialists 1720 W Broadway Rd Suite 104 Mesa, AZ 85202	Fatality/Accident Years in Business: 40 Empl. Covered by inspection: 80
Site Location: 1720 W Broadway Rd Ste 104 Mesa, AZ 85202	
Inspection No: T9350-1014631	
Inspection Date: 12/17/2014	

Mr. Warren summarized ADSOH's investigation into a fatal accident and noted that the investigator did not identify any violations of OSHA standards and ADOSH was not recommending any citations. Chairman Parker commented about aircraft fatalities resulting from the unsafe practice of pilots reaching across cabins to open or close something. He asked for clarification on some of the facts and Mr. Warren responded to the question. Mr. Warren added that ADOSH hired an engineer to examine the vehicle and that engineer did not identify any mechanical problem with the vehicle. Chairman Parker asked Mr. Warren to review the file, review the operators' manual, and discuss this matter with counsel. Mr. Sanders agreed with this approach and commented on the driver's actions.

99 Cents Only Stores LLC 12805 N Tatum Blvd Phoenix, AZ 85032	Referral Years in Business: 3 Empl. Covered by inspection: 31
Site Location: 12805 N Tatum Blvd Phoenix, AZ 85032	

Inspection No: F3189-1022016
Inspection Date: 1/29/2015

SERIOUS – Citation 1 - Item 1 – Warehouse: The exit access was not 28 inches wide in several areas of the warehouse where employees and management walkthrough daily to perform their daily job duties. (29 CFR 1910.36(g)(2)).

Div. Proposal - \$2,250.00 Formula Amt. - \$2,250.00

SERIOUS – Citation 1 - Item 2 – Warehouse: Two employees were operating the Yale Motorized Lift Truck Forklift; model number MPB040-EN24T2748, serial number B827N36526G, without being adequately trained in the safe operation of this type of powered industrial truck. (29 CFR 1910.178(l)(1)(i)).

Div. Proposal - \$1,800.00 Formula Amt. - \$1,800.00
TOTAL PENALTY - \$4,050.00 TOTAL FORMULA AMT. - \$4,050.00

Mr. Warren summarized the citation and proposed penalty as listed. Chairman Parker noted the forklift depicted in mounted photographs four and five appeared to be in the process of having the battery charged and asked Mr. Warren if the necessary safety elements were in place for battery charging. Mr. Warren responded that he did not recall any mention of the battery charging in the file. Chairman Parker commented on the size of the employer and asked Mr. Warren if this appeared to be typical or whether this store was a unique situation. Mr. Warren responded that ADOSH was in the process of inspecting two other worksites and the referral did indicate that the problem with exit access was a common practice at least in this store. Following discussion, the Commission unanimously approved issuing the citation and assessed the recommended penalty of \$4,050.00 on motion of Mr. Sanders, second of Vice Chair Strickler.

Design Drywall West, Inc.
6950 W Morelos Pl Ste 1
Chandler, AZ 85226

Planned
Years in Business: 1.5
Empl. Covered by inspection: 14

Site Location: 4309 E Belleview St
Phoenix, AZ 85008
Inspection No: S8089-1018123
Inspection Date: 1/12/2015

SERIOUS – Citation 1 - Item 1 – North side of the building: One employee was working from a tubular welded frame scaffold where the top edge height of top rails or equivalent member was not installed between 38 inches (0.97m) and 45 inches (1.2m) above the platform surface to prevent a fall. (29 CFR 1926.451(g)(4)(ii)).

Div. Proposal - \$1,250.00 Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 2 – North side of the building: One employee was not trained in the recognition and avoidance of the hazards associated with the use of fabricated frame scaffolds. (29 CFR 1926.454(a)).

Div. Proposal - \$1,250.00 Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 – North side of the building West end: Two employees were framing a wall at an approximate height of 13 foot 4 inches above a lower level adjacent to an

approximate 32 inch high parapet wall and were not protected by a guardrail system, safety net system, or personal fall arrest system. (29 CFR 1926.501(b)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 – North side of the building: Two employees working at heights greater than 6 feet and exposed to falls were not provided training to recognize the hazards of falling or the procedures to be followed in order to minimize these hazards.

(29 CFR 1926.503(a)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$5,000.00

TOTAL FORMULA AMT. - \$5,000.00

Mr. Warren summarized the citation and proposed penalty as listed. Chairman Parker asked for clarification regarding the non-serious citation for not using a firm foundation for the scaffold, and Mr. Warren responded to the question. Following discussion, the Commission unanimously approved issuing the citation and assessed the recommended penalty of \$5,000.00 on motion of Vice Chair Strickler, second of Mr. Hennelly.

Chairman Parker announced the Commission would move to Agenda Item 6.

Discussion and/or Action regarding Legislation.

Scot Butler summarized the status of House Bills 2331 and 2346, and responded to questions from the Commission regarding House Bills 2334 and 2438, and Senate Bill 1443. Mr. Butler also commented on a report published on ProPublica regarding workers' compensation reform throughout the nation. Chairman Parker noted that there would be no Commission meeting next week and Mr. Butler explained that if there were any significant amendments to bills of interest to the Commission, that he would perform a quick analysis and, if necessary, provide recommendations to the Commission. He noted the neutral recommendation for HB 2331 and if amendments to HB 2334 include the revisions recommended by the Commission, he would recommend the Commission take a neutral position on that bill as well.

Chairman Parker announced that the next matter would be Agenda Item 5.

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. 2C14/15-1808 Jon Pyle, a single man, dba Quizno's
2. 2C13/14-0212 Nyce Concrete Construction, Inc.
3. 2C13/14-1475 Sutherland Services, LLC

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

1. City of Chandler
2. City of Glendale

Chairman Parker asked if any agenda items needed to be removed from the Consent Agenda. Hearing none, the Commission unanimously approved the items on the Consent Agenda on motion of Vice Chair Strickler, second of Mr. Sanders.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

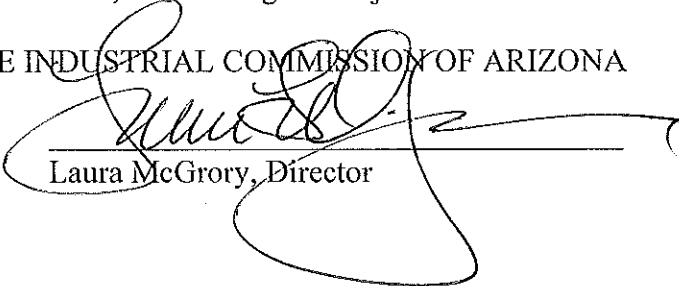
Ms. McGrory stated she sent information to the Commissioners regarding the Physician's Fee Schedule. She explained the information had also been published on the Commission's website and had been distributed to stakeholders through the constant contact list. She invited the Commissioners to contact her if there were any questions.

The Commission reviewed the meeting schedule and there were no changes.

There being no further business to come before the Commission and no announcements, future scheduling of meetings, or public comment, the meeting was adjourned at 10:38 a.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Kara Dimas, Commission Secretary