

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street

Conference Room 308

Phoenix, Arizona 85007

Wednesday, December 18, 2013 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair (telephonic)
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	William Warren	Director, ADOSH
	Chris Brandon	Compliance Officer
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Mr. Hennelly was not able to attend. Also in attendance were Richard Ruelas with the Arizona Republic, and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of December 12, 2013 Meeting

Mr. Sanders stated that the discussion of the agenda item regarding appointment of administrative law judges is not described as he remembered. Chairman Parker stated he believed the Minutes reflected the discussion correctly. Mr. Parker stated that this agenda item will be put back on the agenda for a future meeting. The Commission approved the Minutes of the December 12, 2013 Commission meeting on motion of Ms. Oster, second of Ms. Strickler. The motion passed with a vote of three in favor and one against. Mr. Sanders voted against the motion.

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. 2C12/13-0533 ACME Home Services, LLC
2. 2C11/12-1572 Andrew J Monaghan, P.C. aka
The Monaghan Group
3. 2C12/13-1888 Daymar Enterprises, Inc. dba
Marsh Management and Real Estate
4. 2C11/12-1950 ER Lounge LLC

5. 2C12/13-1485 European Custom Upholstery, Inc. dba
European Custom Upholstery & Woodcraft Mfg.
6. 2C12/13-1689 GGM Enterprises LLC
7. 2SP13/14-0001 Groundhogs & Pistachios Enterprises, LLC dba
Bel-Espirit Day School at Palm Valley
8. 2C13/14-0492 High Desert Delivery, L.L.C.
9. 2C13/14-0575 Miguel A. Rivera, a single man, dba
4 Less Furniture Center
10. 2C12/13-0294 No Hassle Wireless LLC
11. 2C12/13-0500 Ordinary Lifestyles LLC
12. 2C12/13-1566 Promo 360 LLC dba P360 Creative Marketing
13. 2C12/13-2190 Pearson Vending, LLC
14. 2C12/13-1773 Rhodes Transport, LLC
15. 2C11/13-1183 Sierra Madre Granite LLC
16. 2C12/13-1774 Trails, LLC dba
Trails, aka Trails Department Store
17. 2C13/14-0039 Wholesale Tree Trimming, LLC

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

1. Arizona Counties Workers' Compensation Pool
2. Dignity Health fka Catholic Healthcare West
3. Kroger Co
4. Medtronic, Inc.
5. Regis Corporation
6. Ruan Transportation Management Systems, Inc.
7. The Proctor & Gamble Company
8. Valley Schools Workers' Compensation Pool

Chairman Parker stated that item b.1 would need to be heard separately and that Ms. Strickler was recusing herself from that agenda item. The Commission unanimously approved the remaining items on the consent agenda on motion of Mr. Sanders, second of Ms. Oster.

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

Arizona Counties Workers' Compensation Pool – The Commission approved renewal of self-insurance authority on motion of Ms. Oster, second of Mr. Sanders with a vote of three in favor. There was no discussion and Ms. Strickler did not participate in the vote.

Discussion & Action of OSHA Proposed Citations & Penalties

Ciadella Interiors
3116 S. 52nd St.
Tempe, AZ 85282

Fatality/Accident
Yrs/Business – 5
Empl. Cov. by Insp. – 22

Site Location: 3116 S. 52nd St., Tempe, AZ 85282
Inspection #: H1793-317322766
Insp. Date: 09/17/2013

SERIOUS – Citation 1 - Item 1 – Production area: A written lockout/tagout program was not developed and implemented for maintenance personnel or repair persons to prevent the release of stored energy during the performance of repair work on equipment, such as, but not limited to work on die cutting roller press machine. (1910.147(c)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 2 – Production area: One die cutter rolling press machine (Corfine Econopress, model EP84 and serial number 41513.M) was not adequately guarded to protect the operator from the point of operation. (1910.212(a)(1)).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

SERIOUS – Citation 1 - Item 3 –

(a) Production area: One Carpet Carousel, model and serial number unknown had horizontal drive belts that were not fully enclosed and pulleys were not guarded to protect the operator. (1910.219(d)(1)).

(b) Production area: One Carpet Carousel, model and serial number unknown had sprocket wheels and chains that were 7 feet or less above the floor and were not enclosed to protect the operator. (1910.219(f)(3)).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$6,500.00

TOTAL FORMULA AMT. - \$6,500.00

Bill Warren summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. The Division proposal for Citation 1 – Item 2 was for the gravity based penalty with no adjustment factors since the violation directly related to the serious injury. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$6,500.00 on motion of Ms. Oster, second of Mr. Sanders.

Bold Framing Inc.
5128 E. Ingram St.
Mesa, AZ 85205

Complaint
Yrs/Business – 18
Empl. Cov. by Insp. – 7

Site Location: 10047 N Metro Pkwy E, Phoenix, AZ 85051

Inspection #: F3189-317365161

Insp. Date: 10/16/2013

SERIOUS – Citation 1 - Item 1 – West side of the building: Three employees were working on the roof of a building where the parapet wall installation had not been completed, and the employees were not protected by use of a guardrail system, safety net system, or personal fall arrest system to preclude an approximate 16'-1 ½" fall hazard. (1926.501(b)(1)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 – 10047 N Metro Pkwy East: Three employees working on a roof were exposed to an approximately 16'-1 ½" fall hazard and had not been trained by a person qualified in the areas specified in 29 CFR 1926.503(a)(2)(iii) and (a)(2)(viii). (1926.503(a)(2)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$3,000.00

WITH RESPECT TO A WORKPLACE LOCATED AT LOT #167, 2871 E IRIS DR, CHANDLER, AZ, 85249.

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

SERIOUS – Citation 2 - Item 1 – Two employees were setting trusses on the top plate of a two story home where they were not protected from a fall of approximately 22' to the ground below by use of any combination of personal fall protection systems, catch platforms, scaffold platforms, eave barriers, roof jack systems, safety monitoring systems, or parapets at least twenty-four inches high. (A.R.S. 23-492(05)(A)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 2 - Item 2 – Employees were not using protective helmets for protection against impact or falling and flying objects, such as trusses being lifted by a crane. (1926.100(a)).

Div. Proposal - \$600.00

Formula Amt. - \$600.00

SERIOUS – Citation 2 - Item 3 –

a) Three employees were using a Louisville 24' fiberglass extension ladder, model and serial number unknown, which did not extend 3' above the landing surface. (1926.1053(b)(1)).

b) Three employees were utilizing a Louisville, 24' fiberglass extension ladder, model and serial number unknown, to access the second floor of a home under construction at a height of approximately 12' and the extension ladder had a structural defect in that three of the rungs had several dents in them. (1926.1053(b)(16)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$7,600.00

TOTAL FORMULA AMT. - \$7,600.00

Chairman Parker stated that consideration of these citations would be tabled.

Linesets, Inc.
4480 N. 43rd Ave., Ste. A3
Phoenix, AZ 85031

Planned
Yrs/Business – 9
Empl. Cov. by Insp. – 20

Site Location: 4480 N. 43rd Ave., Ste. A3, Phoenix, AZ 85031

Inspection #: J7272-317402717

Insp. Date: 10/30/2013

SERIOUS – Citation 1 - Item 1 – West end of Production Building: A door labeled, Emergency Exit Only, opened to a drop in height of approximately forty-nine inches onto the ground below and the difference in elevation was not negotiated by stairs or ramps. (1910.37(j)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2 –

a) Production and Distribution Area: A Komatsu forklift, model and serial number unknown, was missing the data plate which provided information about forklift such as model and serial number and lifting capacity. (1910.178(a)(6)).

b) Production and Distribution Areas: Two employees were not trained in the safe operation of a Komatsu forklift, model and serial number unknown. (1910.178(l)(1)(i)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 –

a) Production Area: The hook on a Kone Crane, model # XN05050015Y16S1C, serial number E0910219, which was being utilized on a Gorbel 1,000lb Work Station Crane, serial number A85212, did not meet the manufacturer's specifications, as the safety latch did not automatically engage. (1910.179(h)(4)).

b) Production Line: The hook on a Kone Crane ½ ton manual trolley chain hoist, model # XN05050015Y16S1C, serial number E0910219, which was being utilized on a Gorbel 1,000lb Work Station Crane, serial A85212, did not have the hooks inspected monthly by employer and signed reports were not made available upon request. (1910.179(j)(2)(iii)).

c) Production Line: The hook on a Kone Crane ½ ton manual trolley chain hoist, model # XN05050015Y16S1C, serial number E0910219, which was being utilized on a Gorbel 1,000lb Work Station Crane, serial number A85212, did not have the hoist chains inspected monthly by employer and signed reports were not made available upon request. (1910.179(j)(2)(iv)).

d) Production Area: One Kone Crane ½-ton manual trolley chain hoist, model number XN05050015Y16S1C, serial number E0910219, did not have a complete periodic inspection conducted in the past 12 months. (1910.179(j)(3)).

e) Production Line: The rated load test report for the pendant controlled overhead crane was not readily available upon request. (1910.179(k)(2)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 – Compression Station: A foot pedal was used to actuate power to an Enerpac model number PUD1100B, product code G32100, where the pedal was not provided guarding to prevent unintended operation from falling objects or by accidental stepping onto the pedal. (1910.212(a)(1)). There were two other instances of this violation.

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5 – The compressed air distribution system at the site was comprised of polyvinyl chloride pipe. (A.A.C. R20-5-628).

Div. Proposal - \$ 300.00

Formula Amt. - \$ 300.00

TOTAL PENALTY - \$4,800.00

TOTAL FORMULA AMT. - \$4,800.00

Bill Warren and Chris Brandon summarized the citations 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 \$4,800.00 on motion of Ms. Oster, second of Mr. Sanders.

Smith's Food & Drug Centers, Inc. dba Fry's Food Stores
Fry's Marketplace #623
1815 W. Glendale Ave.
Phoenix, AZ 85015

Complaint
Yrs/Business – 20
Empl. Cov. by Insp. – 25

fees not to exceed 10% of any award or settlement, whichever is less, and authorized staff to use typed signatures to facilitate issuing the award on motion of Mr. Parker, second of Mr. Sanders.

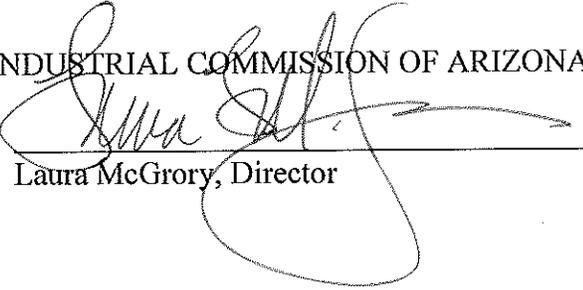
Announcements and Scheduling of Future Meetings

Chairman Parker read the list of tentative Commission meetings through March 2014 and the Commissioners agreed that those dates were still acceptable. Ms. McGrory stated that the tentative Commission meeting schedule has been included on the Commission's website.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 2:15 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary