

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, July 25, 2024 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner
	Orion J. Godfrey	Commissioner
	Gaetano J. Testini	Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Renee Pastor	Self Insurance (Telephonic)
	Melissa Spurgeon	Labor Director
	Christina Sanchez	Labor Supervisor
	Brian Hudson	ADOSH Director
	Victoria Medina	ADOSH Supervisor
	Taryn North	ADOSH Supervisor
	Anna Maria Stonerock	ADOSH Compliance
	Bethany Votta	ADOSH Admin
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:01 p.m. In attendance, confirmed by roll call were Geneva Haber (Snell and Wilmer) and Lindsey Wheeler (Premier Risk Management). Also in attendance on the telephone, confirmed by roll call were Christine Nelson (Central Arizona Project) and Nathan Fraley (The Kroger Co).

Approval of Minutes of July 18, 2024 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the July 18, 2024 regular session meeting and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

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 Requests for Renewal of Self-Insurance Authority.

1. Central Arizona Water Conservation District dba Central Arizona Project
 2. Chevron U.S.A., Inc.
 3. The Kroger Co.
- b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.

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| 1. UR-2024-JW184-0071 | Action Direct LLC DBA Redpoint Contracting |
| 2. UR-2024-JW184-0089 | Amcon L.L.C. |
| 3. CP-2024-AM866-0009 | Corona Millworks Company |
| 4. CP-2024-AD245-0039 | M&M Industries of Arizona, Inc (FN) |
| 5. CP-2024-T3633-0151 | R.V. City, Inc. |
| 6. CP-2024-VM508-0040 | Truly Blessed Jewels |
| 7. PP-2024-JR339-0050 | Walltek Systems LLC |

Commissioner Godfrey moved to approve the items on the Consent Agenda and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2324-0149 Marriott Hotel Services, LLC

Ms. Spurgeon summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$13,950.00 for violation of A.R.S. § 23-364 for the verbal warning and a Penalty in the amount of \$1,350.00 for violation of A.R.S. § 23-364 for the written warning for a total Penalty of \$15,300.00.

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$15,300.00 to Marriott Hotel Services, LLC. Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

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

Chairman Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Dolphin, Incorporated
 440 North 51st Avenue
 Phoenix, AZ 85043

Site Location: 440 North 51st Avenue
 Phoenix, AZ 85043
 Inspection No: FC-2024-VM508-0042
 Inspection Date: February 2, 2024

Fatality/Catastrophe
 Years in Business: 52
 Empl. Covered by Inspection: 1

NON-SERIOUS –

- a) Finishing Department Walkway: Two employees were exposed to a fire extinguisher that was not identified for employee use. 29 CFR 1910.157(c)(1)
Div. Proposal - \$0.00 Formula Amt. - \$0.00

Mr. Hudson summarized ADOSH's investigation and reviewed the file. ADOSH was not recommending any serious citation for Dolphin, Incorporated.

Chairman Kavanaugh asked if the investigation determined what the unidentified object was that may have dropped into the basket. Ms. Medina explained that the manufacturer stated something like this would only have occurred if something unidentified was put into the basket, but since she was onsite post explosion there was no proof anything was physically dumped in there.

Commissioner Everett asked if they had any explosion like that in the past. Ms. Medina noted she asked the manufacturer, and they never have had anyone report such an incident before.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Erickson Framing AZ LLC
250 North Beck Avenue
Chandler, AZ 85226

Referral
Years in Business: 48
Empl. Covered by Inspection: 3

Site Location: Remuda Dr
Peoria, AZ 85383
Inspection No: RF-2024-EG419-0049
Inspection Date: February 16, 2024

SERIOUS – Citation 1 - Item 1 –

- a) Remuda Dr: An employee was exposed to a fall from a roof while installing a four by four, although the employee had a harness donned on the employee was not connected to the anchor point and fell between an approximate height of ten to thirteen feet ten inches. 29 CFR 1926.501(b)(13)
Div. Proposal - \$11,524.00 Formula Amt. - \$11,524.00

NON-SERIOUS –

- a) Remuda Dr Peoria: An employee was hospitalized on February 12, 2024 after a fall from height injury, but passed away on February 26th, 2024, and the fatality was not reported within 8 hours. 29 CFR 1904.39(a)(1)
Div. Proposal - \$1,000.00 Formula Amt. - \$1,000.00
TOTAL PENALTY - \$12,524.00 TOTAL FORMULA AMT. - \$12,524.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh checked if anyone would like to comment.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Capilano Properties #2 LLC dba Central on Broadway	Complaint
2145 West Broadway Road	Years in Business: 8
Mesa, AZ 85202	Empl. Covered by Inspection: 4
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Site Location:	2145 West Broadway Road
	Mesa, AZ 85202
Inspection No:	CP-2024-JW184-0076
Inspection Date:	April 23, 2024

SERIOUS – Citation 1 - Item 1a –

- a) 2145 W Broadway Rd: Two employees stood on the ground while debris such as HVAC units, satellite dishes, cinder blocks, and tree branches were thrown off the sides of 25 three story tall apartment buildings approximately 30 feet above the ground, without wearing hard hats. 29 CFR 1926.100(a)
 Div. Proposal - \$8,067.00
 Formula Amt. - \$8,067.00

SERIOUS – Citation 1 - Item 1b –

- a) 2145 W Broadway Rd: Two employees stood on the ground while debris such as HVAC units, satellite dishes, cinder blocks, and tree branches were thrown off the sides of 25 three story tall apartment buildings approximately 30 feet above the ground without using a chute. 29 CFR 1926.252(a)
 Div. Proposal - \$0.00
 Formula Amt. - \$8,067.00

SERIOUS – Citation 1 - Item 2 –

- a) 2145 W Broadway Rd: Four employees cleaned and removed debris from the flat roofs of 25 apartment buildings, approximately 30 feet tall without a fall protection system in place. 29 CFR 1926.501(b)(10)
 Div. Proposal - \$8,067.00
 Formula Amt. - \$8,067.00

SERIOUS – Citation 1 - Item 3 –

- a) 2145 W Broadway Rd: Four employees cleaned and removed debris from the flat roofs of 25 apartment buildings, approximately 30 feet tall without having received fall protection training. 29 CFR 1926.503(a)(1)
 Div. Proposal - \$8,067.00
 Formula Amt. - \$8,067.00
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| TOTAL PENALTY - \$24,201.00 | TOTAL FORMULA AMT. - \$32,268.00 |
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Mr. Hudson discussed ADOSH’s inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted he did not have a request to speak.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Cavco Industries, Inc. 1300 South Litchfield Road <u>Goodyear, AZ 85338</u> Site Location: 1300 S Litchfield Rd Goodyear, AZ 85338 Inspection No: RF-2024-EG419-0050 Inspection Date: February 15, 2024	Referral Years in Business: 59 Empl. Covered by Inspection: 8
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SERIOUS – Citation 1 - Item 1 –

- a) The tunnel: An employee was required to work above four feet without a fall protection system while standing on the trusses of a prefabricated home to make Heating, Ventilation, and Air Conditioning ducts. 29 CFR 1910.28(b)(1)(i)
 Div. Proposal - \$16,131.00 Formula Amt. - \$16,131.00

SERIOUS – Citation 1 - Item 2 –

- a) The tunnel: An employee was required to work above four feet without fall protection training while standing on the trusses of a prefabricated home to make Heating, Ventilation, and Air Conditioning ducts. 29 CFR 1910.30(a)(1)
 Div. Proposal - \$14,518.00 Formula Amt. - \$14,518.00

SERIOUS – Citation 1 - Item 3 –

- a) The Tunnel: Employees were required to use all purpose powdered joint compound for touch up finishing without effective hazardous communication program training. 29 CFR 1910.1200(h)(1)
 Div. Proposal - \$10,372.00 Formula Amt. - \$10,372.00
TOTAL PENALTY - \$41,021.00 TOTAL FORMULA AMT. - \$41,021.00

Mr. Hudson discussed ADOSH’s inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted he did not have a request to speak.

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Desert Eagles Roofing LLC 24761 West Wedgewood Avenue <u>Buckeye, AZ 85326</u> Site Location: 11102 W Caron Ct Sun City, AZ 85351 Inspection No: CP-2024-EG419-0048	Complaint Years in Business: 4 Empl. Covered by Inspection: 5
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Inspection Date: February 14, 2024

WILLFUL-SERIOUS – Citation 1 - Item 1 –

- a) 11102 W Caron Ct North roof: Two employees were installing shingles on an unprotected edge of a flat residential roof that was approximately twelve feet high without any fall protection system in place.
 - b) 11102 W Caron Ct South roof: An employee was installing shingles on a residential roof with an unprotected edge that had an approximate eave of seven feet and an approximate peak of fourteen feet eight inches without any fall protection system in place. 29 CFR 1926.501(b)(13)
- Div. Proposal - \$32,265.00 Formula Amt. - \$32,265.00

SERIOUS – Citation 2 - Item 1 –

- a) 11102 W Caron Ct North roof: Employees were installing shingles on an unprotected edge of a flat residential roof that was approximately twelve feet high without any fall protection training program. 29 CFR 1926.503(a)(1)
- Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00
- TOTAL PENALTY - \$35,722.00 TOTAL FORMULA AMT. - \$35,722.00

Mr. Hudson discussed ADOSH’s inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh and Mr. Hudson discussed the reason for the Willful citation, putting production ahead of safety.

Chairman Kavanaugh asked Mr. Hudson to make sure this employer be referred to see if they have workers’ compensation insurance coverage.

Commissioner Valdez, Mr. Hudson, and Chairman Kavanaugh discussed the different percentage schedules for the adjustment factors for the willful and the serious citations.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion. Chairman Kavanaugh noted he did not have a request to speak. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

EIS Legacy, LLC 1524 West 14th Street Tempe, AZ 85281	Complaint Years in Business: 75 Empl. Covered by Inspection: 40
Site Location:	1524 West 14th Street Tempe, AZ 85281
Inspection No:	CP-2024-AM866-0010
Inspection Date:	February 6, 2024

SERIOUS – Citation 1 - Item 1 –

- a) Area near the slitting, cutting and tubing section: Refresher training has not been provided when employees have been observed operating forklifts in an unsafe manner (speeding). 29 CFR 1910.178(l)(4)(ii)(A)

Div. Proposal - \$8,067.00

Formula Amt. - \$8,067.00

SERIOUS – Citation 1 - Item 2a –

- a) Fabric slitter machine section: One employee is exposed to rotating parts of an Arrow Slitters Model # 325, serial # 7552 machine without proper guards in place.
- b) Fabric slitter machine section: One employee is exposed to rotating parts of an Arrow Slitters Model # 325-21, serial # 8787 machine without proper guards in place. 29 CFR 1910.219(c)(2)(i)

Div. Proposal - \$9,680.00

Formula Amt. - \$9,680.00

SERIOUS – Citation 1 - Item 2b –

- a) Fabric slitter machine section: One employee is exposed to projecting screws of an Arrow Slitters Model # 325, serial # 7552 machine without proper guards in place.
- b) Fabric slitter machine section: One employee is exposed to projecting thumb screw of an Arrow Slitters Model # 325-21, serial # 8787 machine without proper guards in place. 29 CFR 1910.219(h)(1)

Div. Proposal - \$0.00

Formula Amt. - \$9,680.00

TOTAL PENALTY - \$17,747.00

TOTAL FORMULA AMT. - \$27,427.00

Mr. Hudson discussed ADOSH’s inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted he did not have a request to speak.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Little Enterprises, Inc. dba Stone Cold Masonry
 416 West Lone Cactus Drive
 Phoenix, AZ 85027

Unprogrammed Related
 Years in Business: 25
 Empl. Covered by Inspection: 8

Site Location: 1975 N 99th Ave
 Phoenix, AZ 85037
 Inspection No: UR-2024-JW184-0066
 Inspection Date: February 28, 2024

SERIOUS – Citation 1 - Item 1 –

- a) West side of concrete pad: Four employees walked past multiple black metal frame bolts along the edge of a concrete pad that were not capped. A.R.S. 23-403.A

Div. Proposal - \$10,372.00

Formula Amt. - \$10,372.00

SERIOUS – Citation 1 - Item 2 –

- a) 1975 N 99th Ave: Four employees walked past a scaffold approximately 15 feet tall, with material and tools such as tables, cinder blocks, buckets, and shovels on the top level without having a toe board. 29 CFR 1926.451(h)(1)

Div. Proposal - \$8,296.00

Formula Amt. - \$8,296.00

a) 4125 W Whitton Ave, Phoenix: One employee was exposed to the corrosive chemical Quorum Pink II HF while cleaning the manufacturing line without being provided hazard communication training. 29 CFR 1910.1200(h)(1)
 Div. Proposal - \$10,372.00 Formula Amt. - \$10,372.00
 TOTAL PENALTY - \$49,780.00 TOTAL FORMULA AMT. - \$49,780.00

Mr. Hudson discussed ADOSH’s inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted he did not have a request to speak.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through September 2024.

Chairman Kavanaugh noted the September 26 meeting will be in Flagstaff at the State Bar Workers’ Compensation Seminar, we will have a VPP tour on Wednesday.

Mr. Testini commented on the Governor’s primary goal and challenge to Agencies is to make government more accessible to the people. Part of that is a look at the forms to be completed in order to receive government benefits. The “Form Frenzy” led by Ms. Padgett and the Claims Manager Ruby Tate, help create a simpler form for applying for workers’ comp benefits, and this year they are working on four more forms.

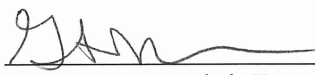
Mr. Testini also noted another Governor program “Hobbs Highlights” to highlight positive things going on in the government. Previously our Ombudsman team were highlighted and eligible for an award at the end of the year. This past month MIS, led by Chester Szoltysik were also nominated for their work on mitigating a potential leak of information.

Public Comment.

There was no public comment.

The meeting was adjourned at 2:05 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By 
 Gaetano J. Testini, Executive Deputy Director

ATTEST:


 Kara Dimas, Commission Secretary