

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 W. Washington

Conference Room 308

Phoenix, Arizona 85007

Thursday, December 10, 2009 – 1:00 p.m.

Present:	Brian Delfs	Chairman
	Marcia Weeks	Vice Chairman
	Louis W. Lujano, Sr.	Member
	John A. McCarthy, Jr.	Member
	Darin Perkins	Acting Director
	Andrew Wade	Chief Legal Counsel
	Teresa Hilton	Commission Secretary

Vice Chairman Weeks convened the Commission meeting at 1:05 p.m. noting a quorum present. Mr. Delfs had not yet arrived. Mr. Parker was not able to attend. Also in attendance were Todd Paschal of Mayer Fire, Teresa Yi of Snell & Wilmer and Jeff Homer of General Dynamics.

Approval of Minutes of December 2, 2009 Meeting

The Commission unanimously approved the Minutes of December 2, 2009 on motion of Mr. Lujano, second of Mr. McCarthy.

Discussion & Action of Proposed Civil Penalties Against Uninsured Employers

2C09/10-0334	CAM Auto Creations, L.L.C.
2C08/09-1377	F & L Arizona L.L.C. dba Boulevard Café
2C09/10-0393	G & B Electric, Inc.
2C08/09-2065	Premier Wireless of AZ, LLC dba Cricket aka Cricket Communications
2C07/08-1671	Rockin Horse County Saloon, LLC dba Club Tropicana aka La Tropicana NC
2C08/09-1938	Sims Family Home, Inc.
2C09/10-0420	Wicked Arizona's Coffee, L.L.C.

Mr. Wade stated that he was holding consideration for a civil penalty against employer #1377 because the name needs to be revised. With regard to employer #1938, it has been ascertained that they did have coverage retroactively and he is not recommending any penalty be assessed against this employer. With regard to the remaining employers, Mr. Wade advised that a compliance investigation confirmed that they were operating (or had operated) a business with employees, but without workers' compensation insurance. Giving consideration to the factors of A.R.S. §23-907(K), Mr. Wade recommended that civil penalties of \$1,000.00 be assessed against employers #0334, 0393, 2065, 1671 and 0420.

Mr. Wade responded to questions from the Commissioners regarding these employers. The Commission unanimously approved civil penalties of \$1,000.00 be assessed against employers #0334, 0393, 2065, 1671 and 0420 on motion of Mr. Lujano, second of Mr. McCarthy.



Fidelity Investments, L.L.C. dba Pro Build  
4805 W. Jefferson Avenue  
Phoenix, AZ 85043

Planned  
Yrs/Business – 20  
Empl. Cov. by Insp. – 30

Site Location: 4805 W. Jefferson Avenue, Phoenix, AZ 85043  
Insp. #: I7163/313891251  
Insp. Date: 09/29/09

SERIOUS – Citation 1, item 1 – A robotic component saw was lacking an awareness barrier installed to prevent employees from contacting rotating and moving parts (1910.212(a)(1). There was another instance of this violation.

(No inspection history in the past three years).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1, item 2 – A radial arm saw was lacking a side guard for the lower portion of the blade (1910.213(h)(1). There were two other instances of this violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1, item 3 – Two employees were operating a conveyor belt which was lacking an arm shaft guard enclosing the rotating arm shaft (1910.219(c)(2)(i)

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL DIV. PROP. - \$3,750.00

TOTAL FORMULA AMT - \$3,750.00

Darin Perkins summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,750.00 on motion of Mr. Lujano, second of Mr. McCarthy.

Southwestern Scale Company, Inc.  
2535 W. Broadway  
Phoenix, AZ 85041

Complaint  
Yrs/Business – 61  
Empl. Cov. by Insp. – 20

Site Location: 2535 W. Broadway, Phoenix, AZ 85041  
Insp. #: I7163/313962789  
Insp. Date: 10/28/09

SERIOUS – Citation 1, item 1 – A bench grinder was lacking a guard to cover the spindle end, nut and flange projections (1910.215(a)(2).

(No inspection history in the past three years).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 2 – A bench grinder was lacking a guard on the vertical drive belt and pulleys (1910.219(d)(1).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 3 – One employee was working with a 4 1/2" hand grinder which was lacking a guard (1910.243(c)(1).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL DIV. PROP. - \$2,100.00

TOTAL FORMULA AMT - \$2,100.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to

questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$2,100.00 on motion of Mr. McCarthy, second of Mr. Lujano.

Discussion &/or Action regarding Budget and Operations of the Industrial Commission

Mr. Perkins stated that there was nothing new to report.

Discussion &/or Action regarding Legislation

Mr. Perkins stated that there was nothing new to report.

Discussion &/or Action regarding Industrial Commission of Arizona, for Itself and as Trustee for the Special Fund of the Industrial Commission of Arizona; and the Special Fund of the Industrial Commission of Arizona, Petitioners, v. Dean Martin, Arizona State Treasurer, in his official capacity; Janice K. Brewer, Governor of the State of Arizona, in her official capacity, Respondents. The Commission may move into Executive Session under A.R.S. §§38-431.03(A)(3) and (A)(4) for Discussion and Consultation with the Attorneys of the Public Body regarding Pending Litigation or Settlement Discussions in order to resolve Litigation. 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

Mr. Wade stated that there was nothing new to report.

Announcements

Mr. Wade responded to questions from Mr. Lujano related to the recently dismissed public records lawsuit.

Ms. Hilton reminded the Commissioners that the next meeting was scheduled for Thursday, December 17<sup>th</sup>.

There being no further business to come before the Commission and no public comment, Chairman Delfs adjourned the meeting at 1:25 p.m.

APPROVED:

THE INDUSTRIAL COMMISSION OF ARIZONA

By *James L. Delfs*  
Chairman

By *Kevin Wade*  
Vice Chairman

By *Louis W. Lujano, Sr.*  
Member

ATTEST:

By *John A. McCarthy*  
Member

*Teresa Hilton*  
Commission Secretary

By \_\_\_\_\_  
Member