

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Wednesday, September 14, 2011 – 1:00 p.m.

Present:	Brian Delfs	Chairman (telephonic)
	David Parker	Vice Chairman (video conference)
	John A. McCarthy, Jr.	Member
	Kathy Oster	Member
	Susan Strickler	Member
	Darin Perkins	Acting Director
	Noreen Thorsen	Claims Manager
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Vice Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance were Eda Barolli of Snell & Wilmer and Jeff Homer of General Dynamics.

Approval of Minutes of August 31, 2011 Meeting

The Commission unanimously approved the Minutes of August 31, 2011, on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of ADOSH Discrimination Complaint

#11-03 Nigam Samal vs Trion Technology, Inc. - Darin Perkins presented a summary of the Division's investigation of a discrimination complaint filed by Dr. Samal. In his complaint, Dr. Samal alleges that he was terminated for requesting to have a safety device installed on process equipment. In response to the complaint, the employer presented its position with respect to Dr. Samal's separation from employment.

Mr. Perkins presented a history of Dr. Samal's employment and chronology of events and responded to questions from the Commission. The Division recommendation was not to pursue the matter since there was insufficient evidence to support a causal link between protected activity and adverse action. Following discussion, the Commission unanimously voted not to pursue the complaint on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of Proposed OSHA Citations and Penalties

RJM Investment, Inc.  
23500 N. 7<sup>th</sup> Street  
Phoenix, AZ 85024

Fatality  
Yrs/Business – 17  
Empl. Cov. by Insp. – 4

Site Location: Date Creek Road, MP 7, Congress, AZ 85332  
Inspection #: U5916/315584938  
Insp. Date: 05/26/11

SERIOUS – Citation 1 - Item 1 – One crane was driven without a load from one location to another without the boom fully retracted (23.403.A).

(No inspection history in the past three years).

Div. Proposal - \$7,000.00

Formula Amt. - \$7,000.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from accident.

Item 2a – One crane was put back into service after being out of service for twelve months without being given a complete inspection (1910.180(d)(5)(ii)).

Item 2b – A preventative maintenance program based on the crane manufacturer's recommendations was not established, and dated and detailed records were not available (1910.180(b)(2)).

Item 2c – Frequent inspections were not conducted on the crane (1910.180(d)(3)).

Item 2d – Complete periodic inspections were not conducted on the crane (1910.180(d)(4)).

Item 2e – Inspection records were not readily available for the crane (1910.180(d)(6)).

Div. Proposal - \$ 7,000.00

Formula Amt. - \$ 7,000.00

TOTAL PENALTY - \$14,000.00

TOTAL FORMULA AMT. - \$14,000.00

Darin Perkins summarized the citations and proposed penalty as listed. The Division recommendation was for the gravity-based penalties with no adjustment factors since the violations directly related to the fatality. He responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$14,000.00 on motion of Mr. McCarthy, second of Ms. Oster.

Avanti Circuits, Inc.  
17650 N. 35<sup>th</sup> Avenue  
Phoenix, AZ 85023

Referral  
Yrs/Business – 29  
Empl. Cov. by Insp. – 35

Site Location: 17650 N. 35<sup>th</sup> Avenue, Phoenix, AZ 85023

Inspection #: N9589/315553016

Insp. Date: 04/21/11

SERIOUS – Citation 1, Item 1 – Employees handling circuit boards in dip tank operations when corrosive liquids were present were not provided an emergency eyewash station (1910.124(g)(2)).

(No inspection history in the past three years)

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 – Item 2 - Employees were not using adequate protective equipment when corrosive liquid splash hazards existed. Employees were only using safety glasses and gloves when handling circuit boards in dip tank operations where highly corrosive liquids were present (1910.132(a)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 – The milling machine did not have guarding for the rotating vertical shaft and the point of operation (1910.212(a)(1)). There were 4 other instances of this

violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 – The employer did not conduct an initial determination of employee exposure to lead while operating the hot air leveler (1910.1025.(d)(2)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5 – The employer did not conduct monitoring of employees to determine their exposure level to formaldehyde while filling, mixing, and/or working in the vicinity of the tank that contained formaldehyde (1910.1048(d)(1)(i)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

NONSERIOUS – Citation 2 - Item 1 – Employees handling circuit boards in dip tank operations where corrosive liquids were present were not provided locker space or other storage space to prevent contamination of their street clothes (1910.124(g)(1)).

Div. Proposal - \$ 500.00

Formula Amt. - \$ 500.00

TOTAL PENALTY - \$6,250.00

TOTAL FORMULA AMT. - \$6,250.00

Mr. Perkins 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 \$6,250.00 on motion of Mr. McCarthy, second of Ms. Oster.

Chirco Granite Fabrication, Inc. dba Accent Products  
3242 S. Rickey Avenue  
Tucson, AZ 85713

Referral  
Yrs/Business – 14  
Empl. Cov. by Insp. – 12

Site Location: 3238 E. Columbia Street, Tucson, AZ 85713

Inspection #: T3633/315553263

Insp. Date: 05/05/11

WILLFUL NONSERIOUS – Citation 1 - Item 1 – An employee who did finishing work had an 8-hour time-weighted average sound level exposure of 87.3 dBA, and the company had not instituted a hearing conservation program (1910.95( c)(1)). There was another instance of this violation.

**CHIRCO GRANITE FABRICATION INC WAS PREVIOUSLY CITED FOR A VIOLATION OF THIS OCCUPATIONAL SAFETY AND HEALTH STANDARD, 29 CFR 1910.95( C)(1) WHICH WAS CONTAINED IN ADOSH INSPECTION NUMBER 310574280, CITATION 2, ITEM 2, ISSUED ON FEBRUARY 2, 2007 WITH RESPECT TO A WORKPLACE LOCATED AT 3238 E COLUMBIA STREET, TUCSON, AZ 85713.**

(No inspection history in the past three years).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

GROUPED SERIOUS – The alleged violations that follow have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Citation 2 - Item 1a - Ventilation systems in the casting building were not operating as designed on the day of the inspection so that the provision of adequate mechanical or natural ventilation

could not be established (1910.106(h)(3)(iii)(a)).

Item 1b – Employees transferred acetone from a 55 gallon drum to plastic buckets by putting a compressed air nozzle and a tube into the drum, covering the remaining area of the bunghole, and then pressurizing the drum so the acetone flowed out through the tube (1910.106(h)(4)(iii)(a)).

Item 1c – A bucket containing acetone and resin waste was set on top of a second, overturned bucket, which was a practice which could result in spills (1910.106(h)(8)(i)). There was another instance of this violation.

Item 1d – Drums containing waste resin which had been washed from buckets and mixer paddles were stored in the washing area in quantities greater than one day's accumulation (1910.106(h)(8)(iii)). There were two other instances of this violation.

Div. Proposal - \$750.00

Formula Amt. - \$750.00

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Citation 2 - Item 2a – Employees spray applied a flammable gel coat in a spray booth which had an average air velocity of less than 30' per minute at the booth cross section where the spraying was done, and in which there was no visible gauge or other devices installed to indicate that the required air velocity was being maintained (1910.107(b)(5)(i)).

Item 2b – Employees spray applied a flammable gel coat in a spray booth which was not protected with approved automatic sprinklers (1910.107(b)(5)(iv)).

Item 2c – Employees spray applied a flammable gel coat in a spray booth, and electrical wiring and equipment within the spraying area was not approved for the hazardous location (1910.107(c)(6)).

Item 2d - Employees spray applied a flammable gel coat and flammable liquids were stored in the spraying area, including waste oil and eight 1-gallon containers of catalyst, some only partially full (1910.107(e)(2)).

Item 2e – Employees spray applied a flammable gel coat and the south wall of the spray booth had accumulations of combustible material of up to approximately one quarter of an inch thick (1910.107(g)(2)).

Item 2f – Employees spray applied a flammable gel coat and a “NO SMOKING” sign was not posted (1910.107(g)(7)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 2 - Item 3 – Employees poured out a corrosive catalyst, and the self-contained eyewash unit had only a small amount of water in the bottom, so that it was not available for immediate emergency use (1910.151(c)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 2 - Item 4 – Each of the employees who operated the forklift had not been

trained and evaluated (1910.178(1)91)(i).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 2 - Item 5 – A fuse box mounted on the pole next to the resin tank did not have a cover, and live electrical parts were exposed (1910.305(b)(2)(i)). There was another instance of this violation.

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$8,750.00

TOTAL FORMULA AMT. - \$8,750.00

Darin Perkins summarized the citations and proposed penalty as listed. He responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$8,750.00 on motion of Ms. Strickler, second of Mr. McCarthy.

Diversified Lumber dba Pallet Connection, Inc.  
9576 W. Running Deer Trail  
Peoria, AZ 85383

Complaint  
Yrs/Business – 11  
Empl. Cov. by Insp. – 10

Site Location: 671 S. Garland Prairie Road, Williams, AZ 86046

Inspection #: 17163/315658047

Insp. Date: 06/07/11

SERIOUS – Citation 1 - Item 1 – A rip saw was lacking a guard to prevent accidental contact with the rotating saw blade (1910.213(r)(4)). There were two other instances 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 – One rip saw was lacking a guard installed over the vertical drive belt and pulleys to prevent accidental contact (1910.219(d)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 – One conveyor was lacking a guard to prevent accidental contact with rotating sprockets and chain (1910.219(f)(3)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 – Two electrical panels operating at 220 volts were missing a dead front cover to prevent accidental contact with energized electrical components (1910.303(g)(2)(i)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$5,000.00

TOTAL FORMULA AMT. - \$5,000.00

Mr. Perkins 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 \$5,000.00 on motion of Mr. McCarthy, second of Ms. Oster.

Joseph Painting Company, Inc. dba JPCI Services  
4702 E. Virginia St.  
Mesa, AZ 85215

Referral  
Yrs/Business - 17  
Empl. Cov. by Insp. - 6

Site Location: 2800 E. Southern Ave., Tempe, AZ 85282  
Inspection #: N9589/315489260  
Insp. Date: 04/15/11

REPEAT SERIOUS – Citation 1 - Item 1 – Personal fall arrest systems were not inspected prior to each use for wear, damage, and other deterioration, and/or defective components were not removed from service. DBI Sala confined space tripods used as personal fall arrest anchors were modified and put into service without approval from the manufacturer. The employer removed the safety chains connecting the base of each leg on all confined space tripods which likely decreased tripod designed load rating and stability (1926.502(d)(21)).

JPCI SERVICES WAS PREVIOUSLY CITED FOR A VIOLATION OF THIS OCCUPATIONAL SAFETY AND HEALTH STANDARD OR ITS EQUIVALENT (1926.502(d)(21) WHICH WAS CONTAINED IN ADOSH INSPECTION NUMBER A7717/314738063, CITATION 1, ITEM 4b ISSUED ON 11/03/2010 WITH RESPECT TO WORKPLACES LOCATED AT DOBSON RD. & ROCKWELL ST. AND PRICE RD. & LOOP 101 ENTRANCE, CHANDLER, AZ.

(One inspection in the past three years – five serious and three nonserious violations)

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS – Citation 2 - Item 1 – Employees performed manhole renovation work involving permit-required confined space entry into an active sanitary sewer system without prior inspection, verification, and certification of acceptable entry conditions by a qualified person thereby exposing employees to confined space hazards (23.403(A)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 2 - Item 2 – Where entry was conducted into an active sewer system and engineering controls (i.e. forced air ventilation) were instituted, continuous monitoring was not instituted to account for changing conditions and/or ventilation system failure (1926.800(j)(1)(i)(B)).

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

SERIOUS – Citation 2 - Item 3 – The authorized entrant remained within the confined space when the ventilation system stopped functioning. An unauthorized employee entered the space to perform rescue prior to institution of the ventilation system and testing for air contaminants and declared safe by the competent person (1926.800(k)(8)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$6,000.00

TOTAL FORMULA AMT. - \$6,000.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. He advised that the Legal Dept. looked at the possibility of a willful citation but did not see evidence that would support the willful classification. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$6,000.00 on motion of Ms. Oster, second of Mr. McCarthy.

Trendwood, Inc.  
120 E. Watkins St.  
Phoenix, AZ 85004

Planned  
Yrs/Business - 26  
Empl. Cov. by Insp. - 180

Site Location: 2402 S. 15<sup>th</sup> Ave., Phoenix, AZ 85007  
Inspection #: I7163/315697284  
Insp. Date: 06/15/11

SERIOUS - Citation 1 - Item 1 - Two employees were working on a platform approximately 3' wide, 15' long and 13 ½' high, which was lacking standard guardrails on all open sides (1910.23(c)(1)). There was another instance of this violation.

(No inspection history in the past three years)

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS - Citation 1 - Item 2 - Two employees were not trained on the proper use and care of the required fall protection equipment (i.e. full body harness and lanyard (1910.132(f)(1))).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS - Citation 1 - Item 3 - A mill machine was lacking a guard at the point of operation (1910.212(a)(1)). There was another instance of this violation.

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$5,250.00

TOTAL FORMULA AMT. - \$5,250.00

Mr. Perkins 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 \$5,250.00 on motion of Mr. McCarthy, second of Ms. Oster.

Trendwood, Inc.  
120 E. Watkins St.  
Phoenix, AZ 85004

Planned  
Yrs/Business - 26  
Empl. Cov. by Insp. - 80

Site Location: 261 E. University Dr., Phoenix, AZ 85007  
Inspection #: I1763/315697458  
Insp. Date: 06/15/11

SERIOUS - Citation 1 - Item 1 - One employee was working on a platform approximately 3' wide, 5' long and 13' high, which was lacking standard guardrails on all open sides (1910.23(c)(1)).

(No inspection history in the past three years).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS - Citation 1 - Item 2 - One employee was operating a panel saw which was lacking a guard at the point of operation and the rotating part, to prevent the operator from placing any part of his body into the danger zone during the operating cycle (1910.212(a)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$3,500.00

TOTAL FORMULA AMT. - \$3,500.00

Darin Perkins 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 \$3,500.00 on motion of

Ms. Oster, second of Mr. McCarthy.

Trendwood, Inc.  
120 E. Watkins St.  
Phoenix, AZ 85004

Planned  
Yrs/Business - 26  
Empl. Cov. by Insp. - 80

Site Location: 261 E. University Dr., Phoenix, AZ 85007  
Inspection #: U9805/315658187  
Insp. Date: 06/13/11

SERIOUS - Citation 1, Item 1 - Outside storage area had wood shelves that were bowing due to overloading and did not have a load capacity rating to determine the total amount of weight that should be stored on the wood shelves (1910.22(d)(1)).

(No inspection history in the past three years)

Div. Proposal - \$1,050.00

Formula Amt. - \$1,050.00

SERIOUS - Citation 1 - Item 2 - The employer did not evaluate the dust collectors to determine if the space was a permit required confined space (1910.146(c)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$2,800.00

TOTAL FORMULA AMT. - \$2,800.00

Mr. Perkins 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 \$2,800.00 on motion of Ms. Strickler, second of Ms. Oster.

#### Discussion & Action of Request for Lump Sum Commutation

Gilbert Gonzales #20062-770125 - Noreen Thorsen presented this lump sum petition with a recommendation to approve the petition. In support of this recommendation, Ms. Thorsen explained how approving the lump sum commutation would be expected to result in a financial betterment to Mr. Gonzales since he will be able to put most of it in a CD. Mr. Gonzales is currently going to school and working part time. Ms. Thorsen responded to questions from the Commissioners. Ms. Oster and Mr. Parker expressed concern that Mr. Gonzales will be losing more with the discount than he will get in a CD. Ms. Thorsen responded that Mr. Gonzales felt this would force him to save the money. Following discussion, the Commission approved the lump sum request on motion of Mr. McCarthy, second of Ms. Strickler. Mr. Delfs voted against the motion.

#### Discussion &/or Action regarding Legislation

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

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

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

#### Announcements and Scheduling of Future Meetings

Ms. Hilton reminded the Commissioners that the next Commission meeting is scheduled

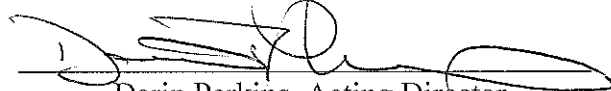


for Thursday, September 22<sup>nd</sup>. It was discussed that this meeting may be cancelled if there are no further agenda items besides civil penalties. The Commission also scheduled a meeting for Thursday, October 13<sup>th</sup>.

There being no further business to come before the Commission and no public comment, Vice Chairman Parker adjourned the meeting at 2:00 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Darin Perkins, Acting Director

ATTEST:

Teresa Hilton  
Teresa Hilton, Commission Secretary