

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Wednesday, April 4, 2012 – 1:00 p.m.

Present:	David Parker	Chairman
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Susan Strickler	Member
	Michael G. Sanders	Member
	Laura L. McGrory	Director
	Andrew Wade	Chief Counsel
	Darin Perkins	Director, ADOSH
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:02 p.m. noting a quorum present. Also in attendance were Eda Barolli of Snell & Wilmer and Spencer Kamps of Home Builders' Association of Central Arizona.

Approval of Minutes of March 21, 2012 Meeting

The Commission unanimously approved the Minutes of March 21, 2012 on motion of Mr. Sanders, second of Mr. McCarthy.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C11/12-0162 K. Frye & Girlfriends, LLC
2. 2C11/12-0167 North American Carrousel and Cart Manufacturing Company (a Minnesota Corporation)
3. 2C11/12-1606 Plaza Motors, Inc.
4. 2C11/12-1607 The Vanderslice, L.L.C.

Chairman Parker asked if any of the listed items needed to be removed from the consent agenda. Secretary Hilton stated that item a.4. needed to be removed from consideration. The Commission unanimously approved the remaining items on the consent agenda on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of ADOSH Discrimination Complaints

#12-3 Cody Barrett vs. Lee's Pipelines, Inc. - Darin Perkins presented a summary of the Division's investigation of a discrimination complaint filed by Mr. Barrett. In his complaint, Mr. Barrett alleges that he was terminated for notifying his supervisor, the Human Resource Manager, and the owner that the excavation he was being asked to work in was not safe and did



of building D and demonstrated inadequacies in their training by climbing over the guardrail (1926.454(c)(3)).

(One inspection in the past three years with one non serious violation).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 – The employer did not protect employees from falling through the roof hatch access hole on the roof deck (1926.501.(b)(4)(i)).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

TOTAL PENALTY - \$6,500.00

TOTAL FORMULA AMT. - \$6,500.00

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 \$6,500.00 on motion of Mr. McCarthy, second of Ms. Strickler.

CentiMark Corporation  
1956 West Cheryl Drive  
Phoenix, AZ 85021

Unprogrammed Related  
Yrs/Business – 22  
Empl. Cov. by Insp. – 5

Site Location: 2707 E. Van Buren Street, Phoenix, AZ 85008

Inspection #: Q8339/316300334

Insp. Date: 1/9/12

SERIOUS – Citation 1, Item 1 – Employees utilized scaffolding as a ladder to access the roof of building D and demonstrated inadequacies in their training by climbing on and over the guardrail (1926.454(c)(3)).

(One inspection in the past three years with four non serious violations).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1, Item 2 – The employer did not protect employees from falling through the roof hatch access hole which had been cut into the metal deck (1926.501(b)(4)(i)).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

TOTAL PENALTY - \$6,500.00

TOTAL FORMULA AMT. - \$6,500.00

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 \$6,500.00 on motion of Mr. McCarthy, second of Ms. Oster.

Mesa Imports, Inc., dba San Tan Honda Superstore  
1150 S. Gilbert Road  
Chandler, AZ 85286

Complaint  
Yrs/Business – 35  
Empl. Cov. by Insp. – 223

Site Location: 1150 S. Gilbert Road, Chandler, AZ 85286

Inspection #: I7163/316395524

Insp. Date: 2/16/12

SERIOUS – Citation 1, Item 1 – Two employees were not trained in the recognition and avoidance of hazards associated with a scissor lift (23.403(A)).

(No inspection history in the past three years).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1, Item 2 – A written lockout/tagout program was not developed and implemented for maintenance personnel to prevent the release of stored energy during the performance of repair work on equipment, such as, but not limited to, conducting maintenance on different equipment in the facility (i.e. car hoist, brake lathes, car wash machinery, etc.)(1910.147(c)(1)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1, Item 3 –The employer did not ensure that the circuits were de-energized and rendered inoperative while performing maintenance to light fixtures (i.e. changing ballast) (1910.333(a)(1)).

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 Ms. Oster, second of Ms. Strickler.

#### Discussion &/or Action regarding Residential Fall Protection

Laura McGrory advised that Governor Brewer signed SB 1441 on March 27, 2012, and, because the Bill contains an emergency clause, the requirements became effective immediately upon her signature. She stated that information regarding that Bill has been posted on the Commission's website and also distributed to stakeholders via Constant Contact. Ms. McGrory explained that the Commission is required to adopt the requirements of the Bill as a rule, and provided a summary of the process. She stated that the Commission will be provided with a final rule for consideration at the Commission meeting scheduled for April 25, 2012. Ms. McGrory explained, that until the effective date of the rule, why ADOSH will enforce the requirements contained in the Bill through the general duty clause. By enacting this new legislation, the Legislature has recognized the hazards and because these are recognized hazards, it is appropriate for ADOSH to enforce the requirements under the general duty clause. She described ADOSH plans with respect to training staff and training opportunities for stakeholders. Mr. Perkins advised staff has received several requests to speak to employers and provide training. Mr. Parker stated this is a unique rule package and the Legislature has directed the Commission to adopt the requirements as a rule and as a result, the Commission's role in adopting the new requirements is more a ministerial function. He summarized staff's plan with respect to enforcement and the process to adopt the rule. He asked if the Commissioners had any concerns with the process. The process was discussed further with staff responding to questions. Mr. Parker asked Mr. Kamps if he had any comments. Mr. Kamps stated that he did not have any comments.

#### Announcements and Scheduling of Future Meetings

Ms. Hilton reminded the Commissioners that meetings are scheduled for April 11<sup>th</sup> and 25<sup>th</sup>, 2012. Additional meetings were scheduled for May 10<sup>th</sup>, 17<sup>th</sup> and 23<sup>rd</sup>, 2012.

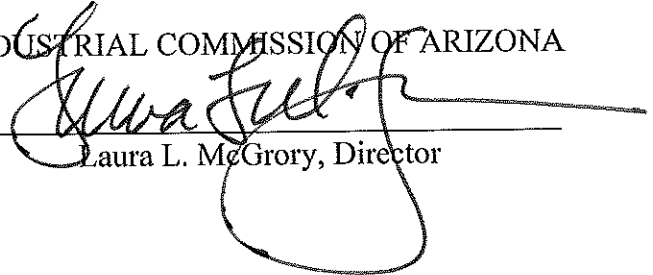
Discussion &/or Action regarding Legislation

Laura McGrory summarized legislation of interest to the Commission and responded to questions from the Commissioners.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 2:01 p.m.

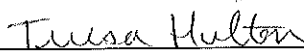
THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary