

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, September 26, 2012 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member (telephonic)
	Susan Strickler	Member
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Kathryn Harris	Legal Counsel
	Darin Perkins	Director, ADOSH
	Renee Pastor	Manager, Self Insurance
	Kamen Kovatchev	Self-Insurance
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance was Eda Barolli of Snell & Wilmer.

Approval of Minutes of September 19, 2012 Meeting

The Commission unanimously approved the Minutes of the September 19, 2012 meeting on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action of ADOSH Discrimination Complaint

#12-02 Raymon Handy v Loomis Armored U.S. LLC – Darin Perkins stated that this matter had been discussed at the Commission meeting last week and the Commission requested additional investigation. He advised that ADOSH is still performing the additional investigation and intends to present the findings next week. Mr. Sanders requested that certain pages of a document titled Loomis Employee Handbook, a Teammate Guide to Employment, be supplied to the Commissioners.

Discussion & Action of Proposed OSHA Citations & Penalties

Tin Works, Inc.
8261 E. Gelding Drive, Suite A
Scottsdale, AZ 85260-3685

Planned
Yrs/Business – 28
Empl. Cov. by Insp. – 3

Site Location: 8261 E. Gelding Drive, Suite A, Scottsdale, AZ 85260-3685
Inspection #: U5916/316612076
Insp. Date: 07/11/12

cutting system, in order to prevent the unexpected startup or energization of equipment that could cause injury to an employee performing service or maintenance on the equipment (1910.147(c)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 2 – Employees were not trained in the safe operation of an industrial truck (1910.178(I)(1)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 3 – An industrial truck was not taken out of service for the unsafe condition of missing a seat belt (1910.178(p)(1)). There was another instance of this violation.

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 4 – A 22 gauge cleat former machine did not have a guard covering the ingoing nip points (1910.212(a)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 5 – A bench grinder was lacking a work rest on the left abrasive wheel, and the work rest on the right side abrasive wheel was not adjusted to within 1/8 inch of the wheel (1910.215(a)(4)).

Div. Proposal - \$100.00

Formula Amt. - \$100.00

SERIOUS – Citation 1 - Item 6 – A notcher machine was lacking a cover/guard for an opening 8" wide by 12" tall, exposing a rotating fly wheel (1910.219(b)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 7 – A slitter machine was lacking a guard over the 1-1/4" wide by 20" long horizontal shaft to prevent accidental contact with the rotating part (1910.219(c)(2)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 8 – Four electric portable hand held grinders were lacking safety guards to protect the operator from the hazards created by impalement, sparks and flying debris should the 4" abrasive wheel(s) disintegrate during the operating cycle (1910.243(c)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

GROUPED SERIOUS – Citation 1 - Item 9(a) – A breaker panel had a 2" x 1/2" unused opening in an electrical panel box that was not effectively closed (1910.305(b)(1)(ii)). There was another instance of this violation.

Citation 1 - Item 9(b) – Electrical outlet box used for a slitter machine was missing a plug outlet receptacle cover with 1/2" openings on all sides of the plug-receptacle, exposing live parts (1910.305(b)(2)(i))

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$6,100.00

TOTAL FORMULA AMT. - \$6,100.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Ms. Oster asked for clarification regarding one of the penalty amounts and Mr. Perkins explained the basis for the penalty amount. Mr. Parker commented on grouping of multiple violations involving the same safety standard compared to

TOTAL PENALTY - \$6,450.00

TOTAL FORMULA AMT. - \$6,450.00

Darin Perkins stated that although the gravity based penalty for Item 4 should be \$5,000.00, the Division proposal of \$1,500.00 is correct as is the total penalty amount. He summarized the citations and proposed penalties as listed and responded to questions from the Commissioners. Mr. Parker asked whether Citation 1 - Item 1(b) would be appropriate if the respirator in use was a single use disposable dust mask. Mr. Perkins responded that he would explore this issue with the compliance officer and remove the citation if it is not appropriate. He explained that if this item is removed, the penalty amount would not change because this is a grouped citation. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$6,450.00 on motion of Ms. Strickler, second of Mr. McCarthy.

Metal-Weld Specialties, Inc.
8137 N. 83rd Avenue
Peoria, AZ 85345

Planned
Yrs/Business - 47
Empl. Cov. by Insp. - 54

Site Location: 8137 N. 83rd Avenue, Peoria, AZ 85345
Inspection #: H1793/316612100
Insp. Date: 07/12/12

SERIOUS - Citation 1 - Item 1 - Mechanical Shop: Employees were exposed to being crushed by the collapse of an automotive lift. The lift was not being inspected by a qualified person and employees were not adequately trained in the use and care of the lift, in accordance with industry standards as outlined in ANSI/ALI ALIOM 2008."

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS - Citation 1 - Item 2 - A written lock out/tag out 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 a press brake, a sheer, band saws and welders (1910.147(c)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS - Citation 1 - Item 3 - A transfer table was lacking a guard to prevent the operator from placing any part of his body in the danger zone and the rotating drive shaft which had a spinning action that could potentially catch employees clothing binding up on the employee's limbs (1910.212(a)(1)). There were two other instances of this violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS - Citation 1 - Item 4 - A six inch abrasive wheel grinder with a wire wheel attachment was lacking a guard to cover the spindle end, nut and flange projection (1910.215(a)(2)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS - Citation 1 - Item 5 - One six inch bench grinder did not have the work rest installed and adjusted to within one-eighth inch of the abrasive wheel to prevent the work from being jammed between the wheel and the frame of the grinder (1910.215(a)(4)).

Div. Proposal - \$ 100.00

Formula Amt. - \$ 100.00

TOTAL PENALTY - \$5,100.00

TOTAL FORMULA AMT. - \$5,100.00

Darin Perkins summarized the citations and proposed penalty as listed. Mr. Parker

commented on the language used in describing Citation 1 – Item 1. Mr. Perkins stated he will make sure the citation is worded properly. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$5,100.00 on motion of Mr. Sanders, second of Ms. Oster.

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

Ms. Strickler requested that a column be added to the claims profile prepared by staff that would show total incurred claims amount for the past three years. The other Commissioners agreed that they would like to see that information. Mr. Parker also asked to see the amount before credits which would also show losses. Ms. Pastor stated she could get the information from the workers' compensation liability form and loss run and will provide a copy of the liability form to the Commissioners.

Conagra Foods, Inc. – Ms. Pastor presented staff's renewal report along with current Standard & Poor's, Moody's, Fitch, and Dunn and Bradstreet bond and credit ratings. Administration is recommending renewal of workers' compensation self-insurance authority based on the company's good financial condition with total assets of \$11.44 billion; the filing of a \$208,826 bond as a statutory deposit; a clean audit report; and acceptable bond and credit ratings. The Commission unanimously approved renewal of self-insurance authority on motion of Ms. Strickler, second of Ms. Oster.

Knight Transportation, Inc. – Ms. Pastor presented staff's renewal report along with a current Dunn and Bradstreet credit rating and responded to questions from the Commissioners. Administration is recommending renewal of workers' compensation self-insurance authority with a higher deposit based on their financial strength with assets of over \$737 million, and a clean audit report. Ms. Oster stated that the letter of credit may be low. Ms. Pastor agreed that it should be higher. The Commission discussed Knight's prior and current practices relating to coverage for independent contractors. Mr. Parker requested that the Director and legal counsel review the current practice with Ms. Pastor to make sure it is appropriate. The Commission unanimously approved renewal of self-insurance authority with an increased security deposit on motion of Ms. Strickler, second of Mr. McCarthy.

Smith Pre-Cast, Inc. – Chairman Parker stated that consideration of renewal of self-insurance authority will be held until next week's meeting.

Southwest Gas Corporation – Ms. Pastor presented staff's renewal report along with current Standard and Poor's, Moody's, Fitch, and Dunn and Bradstreet bond and credit ratings. Administration is recommending renewal of workers' compensation self-insurance authority based on the employer's consistent record of profitability and growth, large size with total assets of over \$4.2 billion, a clean audit report, and acceptable bond and credit ratings. The Commission unanimously approved renewal of self-insurance authority on motion of Mr. Sanders, second of Ms. Oster.

Discussion &/or Action regarding Budget and Operations of the Industrial Commission including Investigation of ADOSH Discrimination Complaints filed under A.R.S. §23-425

Laura McGrory provided summary information regarding the agency's current budget for FY 13 and explained that the Commission was required to reduce its appropriated FTE count to

235.6, which required the elimination of 45 positions. Ms. McGrory then provided summary information for the recently filed FY 14 budget request and explained the two funding issues (related to privatization of SCF Arizona and investigation of ADOSH discrimination complaints) that were included with that request. Ms. McGrory also described how ADOSH investigations will be handled in the interim to address the increase in the number of complaints filed. Ms. McGrory and Mr. Hawthorne responded to questions from the Commissioners regarding the request for additional FTEs and appropriation authority related to the identified funding issues for FY 14.

Discussion &/or Action regarding Legislation

Ms. McGrory stated that there was nothing to report.

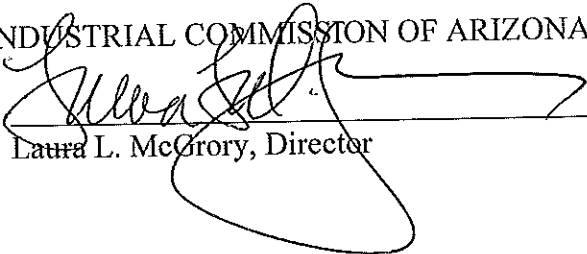
Announcements and Scheduling of Future Meetings

Chairman Parker confirmed with the other Commissioners that the currently projected meeting dates are acceptable. Secretary Hilton reminded the Commissioners that the next meeting is scheduled for Wednesday, October 3, 2012.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 2:30 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary