

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street

Conference Room 308

Phoenix, Arizona 85007

Wednesday, November 14, 2012 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair (telephonic)
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Darin Perkins	Director, ADOSH
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. John McCarthy and Susan Strickler were not able to attend. Also in attendance was Eda Barolli of Snell & Wilmer.

Approval of Minutes of November 8, 2012 Meeting

The Commission unanimously approved the Minutes of the November 8, 2012 meeting on motion of Mr. Sanders, second of Ms. Oster.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C12/13-0018 R&R Physical Therapy, Inc.
2. 2C11/12-1141 The Village Furniture Maker, Ltd.

Chairman Parker asked whether any items needed to be removed from the consent agenda. Secretary Hilton stated that item #(a)(1), 2C12/13-0018 R&R Physical Therapy, Inc. was being removed from the consent agenda. The Commission unanimously approved the remaining item on the consent agenda on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action of R&R Physical Therapy, Inc. – Andrew Wade advised that this employer has obtained workers' compensation coverage and he is now recommending a reduced penalty of \$500.00. The Commission unanimously approved a penalty of \$500.00 on motion of Ms. Oster, second of Mr. Sanders.

Discussion & Action of Proposed OSHA Citations & Penalties

A-1 Steel Inc.
2619 West Dallas Avenue
Apache Junction, AZ 85220

Unprogrammed Related
Yrs/Business – 28
Empl. Cov. by Insp. – 8

Site Location: 1000 South Sawmill Road, Flagstaff, AZ 86001
Inspection #: X9949/316612449
Insp. Date: 07/17/12

SERIOUS – Citation 1 - Item 1 – A seatbelt installed on an orange telescopic forklift was not worn by an employee operating the equipment (1926.095(a)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 2 – Three employees were elevated to a height of approximately 30' above ground level utilizing a shop made metal basket that was approximately 4'1"W, X 3'7-1/4" H, X 7' 2-5/8" L via an orange telescopic terrain forklift and the forklift was not designed for such use (1926.451(c)(2)(iv)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 – Two employees did not maintain their feet on the platform of a shop fabricated metal basket that was approximately 4'1"W, X 3'7-1/4" H, X 7' 2-5/8" L that was raised approximately 30' above ground level via an orange telescopic terrain forklift, as one employee was sitting on the top rails of the basket and another employee was standing on the mid-rails of the basket (1926.451(g)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 – Three employees were working from a job fabricated basket that was approximately 4'1"W, X 3'7-1/4" H, X 7' 2-5/8" L that was raised via a telescopic forklift at approximately 30' above ground level and had not been provided with scaffold training in the procedures to minimize fall hazards (1926.454(a)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$5,000.00

TOTAL FORMULA AMT. - \$5,000.00

Darin Perkins summarized the citations and proposed penalty as listed. Mr. Sanders commented on the evidence. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$5,000.00 on motion of Mr. Sanders, second of Mr. Parker.

United General Bakery Inc. dba Upper Crust Bakery
3655 West Washington Street
Phoenix, AZ 85009

Complaint
Yrs/Business – 11
Empl. Cov. by Insp. – 250

Site Location: 3655 West Washington Street, Phoenix, AZ 85009

Inspection #: Y5457/316762541

Insp. Date: 10/03/12

SERIOUS – Citation 1 - Item 1 – A vertical mixer had unguarded ring and pinion drive gears (1910.263(c)(2)).

Div. Proposal - \$2,500.00

Formula Amt. - \$2,500.00

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 \$2,500.00 on motion of Ms. Oster, second of Mr. Sanders.

Reliance Custom Cabinets, Inc.
825 North 73rd Avenue, Suite 144
Phoenix, AZ 85043

Complaint
Yrs/Business – 22
Empl. Cov. by Insp. – 4

Site Location: 825 North 73rd Avenue, Suite 144, Phoenix, AZ 85043

Inspection #: Y5457/316739036
Insp. Date: 09/20/12

SERIOUS – Citation 1 - Item 1 – The quantity of flammable and combustible materials kept in the vicinity of spray operations was in excess of the minimum required for operation and or one day or shift (1910.107(e)(2)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

GROUPED SERIOUS – Citation 1 - Item 2(a) – A written respiratory protection program that included the provisions in 1910.134(c)(1)(i)(ix) with worksite specific procedures was not established and implemented for required respirator use (1910.134(c)(1)).

Citation 1 - Item 2(b) – The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace (1910.134(e)(1)).

Citation 1 - Item 2(c) – The employer did not ensure that employee(s) required to use a tight-fitting face piece respirator passed the appropriate qualitative fit test (1910.134(f)(1)).

Citation 1 - Item 2(d) – The employer did not ensure that each employee could demonstrate knowledge of why the respirator was necessary and how improper fit, usage or maintenance could compromise the protective effect of the respirator (1910.134(k)(1)(i)).

Citation 1 - Item 2(e) – The employer did not provide the basic advisory information on respirators, as presented in Appendix D of this section, in written or oral format to employees who wear respirators when such use was not required by the employer (1910.134(k)(6)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

GROUPED SERIOUS – Citation 1 - Item 3(a) – Floor(s) of workroom(s) were not kept clean to the extent that the nature of the work allowed in that saw dust was not regularly removed from surfaces within the workplace (1910.141(a)(3)(i)).

Citation 1 - Item 3(b) – Employees were permitted to consume food or beverage in area(s) exposed to toxic materials (wood, dust) (1910.141(g)(2)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

GROUPED SERIOUS – Citation 1 - Item 4(a) – A horizontal edge sander was not provided with mechanical or electrical power controls so located that the operator could cut off the power from the machine without leaving his position at the point of operation (1910.213(b)(1)).

Citation 1 - Item 4(b) – Provisions were not made to prevent a horizontal edge sander from automatically restarting upon restoration of power after power failure (1910.213(b)(3)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

GROUPED SERIOUS – Citation 1 - Item 5(a) – A circular handfed ripsaw was not guarded by an automatically adjusting hood which completely enclosed that portion of the saw above the table and above the material being cut (1910.213(c)(1)).

Citation 1 - Item 5(b) – A handfed circular ripsaw was not furnished with a spreader to prevent

material from squeezing the saw or being thrown back on the operator (1910.213(c)(2)).

Citation 1 - Item 5(c) – A handfed rip saw(s) did not have non kickback fingers or dogs so located as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator (1910.213(c)(3)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 6 – Feed rolls of a horizontal edge sander were not protected with semi-cylindrical guards to prevent the hands of the operator from coming in contact with the in running rolls (1910.213(p)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 7 – A drive belt for the exhaust fan of a spray room was not covered where it entered the ducting of the fan (1910.219(d)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 8 – The motor capacitor was broken and improperly repaired, exposing live parts to employee contact (1910.303)(b)(1)).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$6,750.00

TOTAL FORMULA AMT. - \$6,750.00

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 \$6,750.00 on motion of Ms. Oster, second of Mr. Sanders.

Discussion &/or Action regarding Legislation

Ms. McGrory stated that this will be standing agenda item and there was nothing new to report today.


Announcements and Scheduling of Future Meetings

Secretary Hilton reminded the Commissioners that the next meeting is scheduled for Wednesday, November 28, 2012 and will begin with the legislative stakeholders' meeting in the Auditorium.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 1:15 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Laura D. McGrory, Director

ATTEST:


Teresa Hilton, Commission Secretary