

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007

Wednesday, January 23, 2013 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Susan Strickler	Member (telephonic)
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Larry Gast	Acting Director, ADOSH
	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 were Scot Butler, the agency's lobbyist; Jeff Homer of General Dynamics; and Eda Barolli of Snell & Wilmer.

Approval of Minutes of January 9, 2013 Meeting

The Commission unanimously approved the Minutes of January 9, 2013 on motion of Mr. McCarthy, second of Ms. Strickler.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C11/12-2689 Michael Baldwin, P.L.C.
2. 2C12/13-0297 Midwest Beef, L.L.C.
3. 2C11/12-2601 Sorcon Construction Services, L.L.C.
4. 2C11/12-0581 Tranquil Infusion, L.L.C.
5. 2C12/13-0260 WF Financial, L.L.C. dba
Elite Auto Financing aka
Elite Auto Financing Used Cars

Chairman Parker asked whether any items needed to be removed from the consent agenda. Secretary Hilton stated that there were not. The Commission unanimously approved the consent agenda on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action of Proposed OSHA Citations & Penalties

Johnson Roofing, L.L.C.
713 West 1st Place
Mesa, AZ 85201

Complaint
Yrs/Business – 1
Empl. Cov. by Insp. – 16

Site Location: 17244 North 19th Avenue, Phoenix, AZ 85023

Citation 1 - Item 4c - Two 8" grinders were missing tongue guards (1910.0215(b)(9)). There was another instance of this violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 5 - A Chevalier Surface Grinder, Model: FASG-618M, Serial Number 002P-4117 was missing the guard assembly for the 8" abrasive wheel (1910.0215(b)(5)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 6 - Two K. O. Lee toll sharpeners had exposed belts and pulleys below seven feet (1910.0219(2)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$7,250.00

TOTAL FORMULA AMT. - \$7,250.00

Mr. Gast summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. He noted that the gravity-based penalty and Division proposal for Citation 1 – Item 3 should have been \$2,500.00 and \$1,250.00 respectively for a total proposed penalty of \$7,500.00. He stated there were also 11 nonserious violations and summarized those violations. In response to a question from Chairman Parker, Mr. Gast and Ms. McGrory explained the Commission practice regarding nonserious, no-penalty citations. Mr. Parker stated that the penalty threshold for Commission review was \$2,500.00 and asked if the Commission wanted to maintain that practice. Following further discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$7,500.00 on motion of Ms. Oster, second of Mr. McCarthy.

Discussion &/or Action regarding Legislation

Scot Butler provided a legislative report. He advised that none of the proposed legislation identified in the report would appear to directly impact the Commission's operations. Mr. Butler summarized HB's 2235, 2259, 2275, 2279, 2280, 2302, 2303, 2438, HCR 2004 and SB 1087 and responded to questions from Chairman Parker.

Laura McGrory summarized the Report on Arizona Workers' Compensation Insurance Policies with Deductible Coverage. Mr. Butler stated that staff had done a good job of organizing the data and explaining how large deductible policies may contribute to unfairness in the system and an unfair economic advantage to some employers. Ms. McGrory asked the Commissioners to let her know of any comments or suggestions by Friday and stated that the information would not be disseminated until next week. Mr. Butler stated that he and Ms. McGrory would be meeting with legislative leadership next week, along with business and employment groups. The Commission and staff further discussed the deductible coverage issue.

Discussion &/or Action regarding Residential Fall Protection and Response to Federal OSHA regarding Complaint About State Program Administration

Ms. McGrory presented the latest draft of the agency's response to the Complaint About State Program Administration regarding residential fall protection and described the most recent edits. Following discussion, the Commission approved the letter as written on motion of Mr. Sanders, second of Ms. Oster. Ms. McGrory stated copies would be provided to the Governor's Office and Legislative leadership.

Announcements and Scheduling of Future Meetings

Ms. McGrory advised that a copy of the NCCI Medical Data Report for Arizona has been provided to the Commissioners and that the NCCI has offered to make a presentation on this topic.

Ms. McGrory described the Commission's proactive outreach and educational efforts. She commented on the claims-processing webinars, the upcoming ADOSH safety summit, and other OSHA webinars. She noted that work is ongoing to revamp the Commission's website and she described some of the changes.

Ms. McGrory stated that the Commission may want to schedule the annual Physicians' Fee Schedule public hearing. The Commissioners scheduled meeting dates for March 2013 and set the Physician's Fee Schedule public hearing for March 28, 2013.

The next Commission meeting will be held on Thursday, January 31, 2013.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 1:53 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary