

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Tuesday, September 17, 2013 – 1:00 p.m.

Present:	David M. Parker	Chairman (telephonic)
	Susan Strickler	Vice Chair (telephonic)
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Larry Gast	Assistant Director, ADOSH
	Erik Anderson	Compliance Officer
	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 was Andrea Lewis of Snell and Wilmer.

Approval of Minutes of September 11, 2013 Meeting

The Commission unanimously approved the Minutes of the September 11, 2013 General Session on motion of Ms. Oster, second of Mr. Sanders.

The Commission unanimously approved the Minutes of the September 11, 2013 Executive Session on motion of Mr. Sanders, second of Ms. Oster.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately.

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C12/13-0755 Alis Macias & Maria Macias, Husband & Wife,
dba Macias Landscaping
2. 2C12/13-1783 All Season Home Services, LLC
dba Apartment Locators
3. 2C13/14-0014 Arizona Precision Industries, Inc.
4. 2C11/12-1497 David Kluzak & Jamie L. Giraud, Husband & Wife,
dba Complete Pools
5. 2C12/13-0605 Miles Motel LLC
6. 2C12/13-1265 Movers of the Valley LLC Original
dba Movers of the Valley
7. 2C12/13-0758 Nieves Transportation Inc.

Kathy Oster recused herself from consideration of this agenda item. Larry Gast and Erik Anderson summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. The Division proposal was for the gravity based penalty with no adjustment factors since the violation directly related to the serious injury. The Commission approved issuing the citation and assessed the recommended penalty of \$5,000.00 on motion of Mr. Sanders, second of Mr. Hennelly, with a vote of four in favor and none against. Ms. Oster did not take part in the discussion or vote.

Handyman Maintenance, Inc.
4714 N. 43rd Avenue
Phoenix, AZ 85031

Complaint
Yrs/Business - 6
Empl. Cov. by Insp. - 140

Site Location: 3119-3120 Highway I-17, Rimrock, AZ 86335

Inspection #: A7746-317165132

Insp. Date: 06/11/2013

SERIOUS - Citation 1 - Item 1 -

(a) 4714 N 43rd Avenue, Phoenix, AZ, 85031: A hazard assessment of the workplace to determine the type of personal protective equipment, if any, employees performing landscaping and custodial activities should use had not been conducted. Landscaping activities included utilizing gas powered blowers and weed whackers, trimming trees and bushes with loppers or a chainsaw, picking up debris piles and spraying weed killer; and custodial activities including cleaning and sanitizing the rest rooms, as well as unclogging plumbing for the rest area rest rooms. (1910.132(d)(1)).

(b) Rest Areas located along northbound and southbound Highway I-17 in Rimrock, Arizona: Employees exposed to eye and face hazards from flying particles, liquid chemicals and acids or caustic liquids were not provided with or did not have available safety glasses, chemical or goggles or faceshields. (1910.133(a)(1)).

Div. Proposal - \$3,500.00

Formula Amt. - \$3,500.00

SERIOUS - Citation 1 - Item 2 - Rest Areas throughout the State of Arizona: Employees exposed to injurious corrosive liquids in the workplace were not provided with an emergency eye wash and emergency shower for quick drenching or flushing of the eyes and body in case of emergency. (1910.151(c)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS - Citation 1 - Item 3 - Rest Area located at 3119 Northbound Highway I-17; Metal Equipment Shed: The path to ground from the battery charger that was used in a wet location was not permanent, continuous and effective; the plug for the power supply cord was lacking a ground pin and the electrical outlet the battery charger was plugged into was not a grounded circuit. (1910.304(g)(5)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS - Citation 1 - Item 4 -

(a) 4714 N 43rd Avenue, Phoenix, AZ, 85031: A written Exposure Control Plan designed to eliminate or minimize employee occupational exposure to blood or OPIM had not been developed or established to protect employees. (1910.1030(c)(1)(i)).

(b) 4714 N 43rd Avenue, Phoenix, AZ, 85031: The employer did not develop or implement and ensure the use of engineering or work practice controls by employees while they were removing hypodermic needles from sanitary napkin receptacles in the women's rest rooms at rest area locations. (1910.1030(d)(2)(i)).

(c) 4714 N 43rd Avenue, Phoenix, AZ, 85031: Containers for contaminated sharps (used hypodermic needles found at the rest areas) were not provided for employees with occupational exposure. (1910.1030(d)(4)(iii)(A)(1)).

(d) 4714 N 43rd Avenue, Phoenix, AZ, 85031: Containers for cleaning cloths potentially contaminated with blood or other potentially infectious material were not provided to protect employees with occupational exposure. (1910.1030(d)(4)(iii)(B)(1)).

(e) 4714 N 43rd Avenue, Phoenix, AZ, 85031: The Hepatitis B vaccine and vaccination series were not made available to employees with occupational exposure to blood and OPIM (other potentially infectious materials). (1910.1030(f)(1)).

(f) 4714 N 43rd Avenue, Phoenix, AZ, 85031: Employees with occupational exposure to blood and OPIM (other potentially infectious material) were not provided with training and information regarding the hazards of exposure and how to minimize those hazards. (1910.1030(g)(2)(i)).

(g) 4714 N 43rd Avenue, Phoenix, AZ, 85031: A sharps injury log was not established and maintained for the recording of percutaneous injuries to employees with occupational exposure to contaminated sharps (used hypodermic needles). (1910.1030(h)(5)(i)).

Div. Proposal - \$1,750.00	Formula Amt. - \$1,750.00
TOTAL PENALTY - \$8,750.00	TOTAL FORMULA AMT. - \$8,750.00

Larry Gast summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Mr. Parker stated that he believed that the probability factor for Citation 1, Item 4 should be Higher/Greater rather than Higher/Lesser and explained why. Following discussion, the Commission unanimously approved issuing the citations and changed the probability factor for Citation 1, Item 4 to Higher/Greater for a gravity-based penalty of \$5,000.00 and a penalty of \$3,500.00 after adjustment factors for a total penalty of \$10,500.00 on motion of Mr. Sanders, second of Mr. Hennelly.

Announcements and Scheduling of Future Meetings

The Commissioners confirmed future meeting dates through 2013 as follows: October 10, 16, and 30, November 6, 14, and 20, December 4, 12, and 18. All meetings begin at 1:00 p.m. except for the November 14th meeting which will begin at 1:30 p.m.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:50 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary