

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, January 15, 2015 – 1:00 p.m.

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| Present: | David M. Parker | Chairman (video conference) |
| | Susan Strickler | Vice Chair (telephonic) |
| | Michael G. Sanders | Member |
| | Joseph M. Hennelly, Jr. | Member (video conference) |
| | Laura McGrory | Director |
| | Andrew Wade | Chief Counsel |
| | William Warren | ADOSH Director |
| | Bryce Rucker | Compliance Officer |
| | Mandy Murphy | Compliance Officer |
| | Erik Anderson | Compliance Officer |
| | Chris Brandon | Compliance Officer |
| | Steven Ripple | Compliance Officer |
| | Kara Dimas | Commission Secretary |

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

Approval of Minutes of December 18, 2014 and January 8, 2015 Meeting.

The Commission unanimously approved the Minutes of the December 18, 2014 Regular Session on motion of Mr. Sanders, second of Vice Chair Strickler. The Commission unanimously approved the Minutes of the January 8, 2015 Regular Session on motion of Vice Chair Strickler, second of Mr. Hennelly.

Consent Agenda:

- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
 1. 2C14/15-0830 Ed Wallet Electric, L.L.C.
 2. 2C14/15-0370 TH Fabrications, L.L.C.

- b. Approval of Requests for Renewal of Self-Insurance Authority.
 1. Regis Corporation

Chairman Parker stated that agenda item 3. b. 1., Regis Corporation, is removed from today's agenda. The Commission unanimously approved the remaining items on the consent agenda on motion of Mr. Sanders, second of Mr. Hennelly.

Discussion and/or Action regarding Legislation.

Ms. McGrory stated that there were no bills introduced that Scot Butler would report on at this time. Ms. McGrory stated that she provided the Commissioners with a copy of the hearing schedule for the Joint Legislative Budget Committees and explained that the Commission is not on the hearing schedule at this time.

Discussion and/or Action regarding Residential Fall Protection and Federal OSHA's Notice of Initiation of Proceedings to Reject State Initiated Plan Change No. 133, and Reconsider Arizona's State Plan Authority under Section 18(e) of the Occupational Safety and Health Act. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(3) and (A)(4) to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation.

Mr. Wade stated there was nothing to report at this time.

Discussion and Action of Arizona Division of Occupational Safety and Health (ADOSH)
Discrimination Complaints

14-2603-09 – N. Lockwood vs. RA Kierland Restaurant Corp. dba RA Sushi Restaurant
William Warren presented a summary of Mr. Lockwood's complaint, the employer's response, and the results of the ADOSH investigation and responded to questions from the Commissioners. Mr. Warren summarized the evidence supporting the elements such as protected activity and adverse action and he recommended that the Commission pursue the matter. Chairman Parker asked whether the restaurant was a part of a national chain and Mr. Rucker responded to the question. Mr. Sanders asked about the length of time to complete the investigation and Mr. Rucker responded to the question. Mr. Sanders moved for the Commission to pursue the matter and Vice Chair Strickler seconded the motion. As the Commissioners began the vote, Mr. Wade asked if the motion could include directions to the Legal Division to initiate a legal action in court if necessary. Mr. Sanders agreed to include in the motion to pursue the matter that the Legal Division initiate a legal action in court if necessary. Chairman Parker asked Vice Chair Strickler if the directions to staff would be included in her second and she agreed that it is included in the second. Chairman Parker called for a vote on the motion the Commission unanimously voted in favor of the motion.

14-6444-13 – H. Leef vs. Piedmont Airlines, Inc. William Warren presented a summary of Mr. Leef's complaint, the employer's response, and the results of the ADOSH investigation and responded to questions from the Commissioners. Mr. Warren recommended that the Commission not pursue the matter because the investigation did not identify sufficient evidence to support pursuit. Mr. Warren responded to questions from the Commissioners. Mr. Parker commented on the suspension and asked Ms. Murphy if there was evidence that the sister airline was aware of Mr. Leef's safety complaint. Ms. Murphy responded to the question. The Commission unanimously voted not to pursue the complaint on motion of Mr. Sanders, second of Mr. Hennelly.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations
and Penalties.

A-Cal Wrecking Co.
13443 N 20th St
Phoenix, AZ 85022

Fatality/Accident
Years in Business: 42
Empl, Covered by inspection: 5

SERIOUS – Citation 1 - Item 4 – Suite 2 and 3: IDEAL Industries PowerPlug Luminaire Disconnect Model 102, was not being used in accordance with the installation instructions with this product. (29 CFR 1926.403(b)(2)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 5 – Suite 8: Three employees were retro-fitting light fixtures and installing occupancy sensors and were not protected against electric shock by de-energizing and grounding the circuits or effectively guarding the circuits by insulation or other means. (29 CFR 1926.416(a)(1)).

Div. Proposal - \$7,000.00

Formula Amt. - \$7,000.00

SERIOUS – Citation 1 - Item 6 – Suite 8: Three employees were exposed to working on energized equipment, and the employer did not advise the employees on the location of the energized electrical power circuits, the hazards involved, and the protective measures to be taken. (29 CFR 1926.416(a)(3)).

Div. Proposal - \$7,000.00

Formula Amt. - \$7,000.00

TOTAL PENALTY - \$24,750.00

TOTAL FORMULA AMT. - \$24,750.00

Mr. Warren summarized the citation and proposed penalty as listed. Chairman Parker asked if the employer performing the replacement work was in the business of working on electrical systems or if it was the owner of the building had hired workers to perform the work. Mr. Warren explained that Stone Kat was a contractor and he described the type of work the employer performs. Mr. Anderson added that retro-fitting light fixtures is a core component of Stone Kat's business. Chairman Parker commented that the employer should then be very aware of the need to de-energize systems if this was their business, and asked for details about the employer's knowledge of the requirements of the standards. Mr. Anderson responded to the question. Following discussion, the Commission unanimously approved issuing the citation and assessed the recommended penalty of \$24,750.00 on motion of Mr. Sanders, second of Ms. Strickler.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Sanders commended Mandy Murphy and Bryce Rucker for the fine work that they have performed on the OSHA discrimination investigations. Mr. Warren added that Steven Ripple will be performing discrimination investigations. Chairman Parker commented that the Commissioners do appreciate all the work that they have done and wish them the best in their new roles.

Mr. Sanders commented that that there was significant activity at the legislature.

Chairman Parker commented on potential state budget deficits for the current year and the next two years and the impact this may have on out of state travel. Ms. McGrory noted that she has already advised staff that out of state travel requests will not be approved with the exception of training for ADOSH staff which is necessary under the federal grant programs.

Chairman Parker confirmed the Commission meeting dates scheduled through March 2015 and reviewed the dates for April.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:34 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Kara Dimas, Commission Secretary