

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, December 8, 2022 – 1:00 p.m.

Present: Dale L. Schultz	Chairman
Joseph M. Hennelly, Jr.	Vice Chair
D. Alan Everett	Commissioner
James Ashley	Director
Gaetano Testini	Chief Legal Counsel
Trevor Laky	Legislative Affairs Chief/Public Information Officer
Jessie Atencio	ADOSH Director (Telephonic)
Victoria Medina	ADOSH Compliance
Ernesto Garcia	ADOSH Compliance
Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Kristian Cirerol (CMR Construction LLC) and Kaila Hopkins (Snell & Wilmer).

Approval of Minutes of December 1, 2022 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the December 1, 2022 regular session meeting and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett voted in favor of the motion. The motion passed.

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. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

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a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2CNP22/23-0980 Ainsworth Phoenix LLC \$1,000
2. 2CNP22/23-1013 All Terrain Demolition LLC \$1,000
3. 2CNP22/23-0836 Modern Desert Landscapes LLC \$1,000

Commissioner Everett moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett voted in favor of the motion. The motion passed.

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

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Chairman Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.



Div. Proposal - \$0.00  
TOTAL PENALTY - \$975.00

Formula Amt. - \$600.00  
TOTAL FORMULA AMT. - \$1,200.00

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalties unrelated to the fatality, and reviewed the photographs.

The Commissioners had some questions with respect to the citations proposed and other possible citations. Mr. Atencio explained there were some unresolved questions in the file.

Vice Chair Hennelly made a motion to remand to ADOSH for further review. Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett voted in favor of the motion. The motion passed.

Antech Corporation  
4261 S Country Club Rd  
Tucson, AZ 85714

Complaint  
Years in Business: 20  
Empl. Covered by Inspection: 9

Site Location: 4261 S Country Club Rd  
Tucson, AZ 85714  
Inspection No: CP-2022-T3633-0060  
Inspection Date: November 7, 2022

REPEAT - SERIOUS – Citation 1 - Item 1a –

- a) Spray finishing area: Employees used products including paints and powder coats, and the company had not developed and implemented a written hazard communication program. 29 CFR 1910.1200(e)(1)

Antech Corporation was previously cited for a violation of this occupational safety and health standard or its equivalent standard, no hazard communication program, which was contained in ADOSH Inspection Number 1462697, Citation Number 2, Item Number 3 and was affirmed as a final order on September 9, 2020, with respect to a workplace locate at 4261 S Country Club Rd, Ste 101, Tucson, AZ, 85714.

Div. Proposal - \$6,216.00

Formula Amt. - \$3,108.00

REPEAT - SERIOUS – Citation 1 - Item 1b –

- a) Spray finishing area: Employees used products including paints and powder coats, and safety data sheets (SDS) were not maintained at the site for these products. 29 CFR 1910.1200(g)(8)

Antech Corporation was previously cited for a violation of this occupational safety and health standard or its equivalent standard, safety data sheets not maintained, which was contained in ADOSH Inspection Number 1462697, Citation Number 2, Item Number 4 and was affirmed as a final order on September 9, 2020, with respect to a workplace locate at 4261 S Country Club Rd, Ste 101, Tucson, AZ, 85714.

Div. Proposal - \$0.00

Formula Amt. - \$3,108.00

SERIOUS – Citation 2 - Item 1a –

- a) Powder coating booth: Employees sprayed powder coating on metal parts, and the booth where this work was done was constructed out of wood. 29 CFR 1910.107(b)(1)





CMR CONSTRUCTION LLC was previously cited for a violation of this occupational safety and health standard or its equivalent standard, no fall protection, which was contained in ADOSH Inspection Number 1504447, Citation Number 1, Item Number 1 and was affirmed as a final order on 02/09/2021 with respect to a workplace located at 5761 S Park Ave, Tucson AZ, 85714.

CMR CONSTRUCTION LLC was previously cited for a violation of this occupational safety and health standard or its equivalent standard, no fall protection, which was contained in ADOSH Inspection Number 1494962, Citation Number 1, Item Number 1 and was affirmed as a final order on 05/20/2021 with respect to a workplace located at 1730 W Happy Valley Rd, Phoenix, AZ, 85085.

Div. Proposal - \$4,000.00

Formula Amt. - \$2,000.00

SERIOUS – Citation 2 - Item 1 –

- a) 5761 S Park Ave, Tucson, AZ 85714: Two framers worked around a 18"-wide by 9'-long hole located on the second floor with a 12' drop to the lower level. 29 CFR 1926.501(b)(4)

Div. Proposal - \$2,000.00

Formula Amt. - \$2,000.00

TOTAL PENALTY - \$6,000.00

TOTAL FORMULA AMT. - \$4,000.00

Mr. Atencio noted this one was from last week that he requested to bring back to the Commission with no changes. Mr. Atencio discussed ADOSH's inspection, summarized the citations and proposed penalties, and reviewed the photographs.

Chairman Schultz checked if Mr. Cirerol would like to comment. Mr. Cirerol did not make any comments.

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through January 2023.

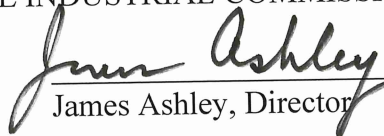
Public Comment.

There was no public comment.

Commissioner Everett moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Everett voted in favor of the motion and the meeting was adjourned at 2:01 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary