

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, May 11, 2023 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
	Scott P. LeMarr	Commissioner
	D. Alan Everett	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief/Public Information Officer
	Renee Pastor	Self Insurance
	Jessie Atencio	ADOSH Director
	James Reitmeier	ADOSH Compliance
	Chuck Thompson	ADOSH Compliance
	Anna Maria Stonerock	ADOSH Admin
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Jose Ramirez (Catalina Roofing & Supply, Inc.); Josh Gamble, Wyatt Strait and Jay Rich (CM Builders, DBA Integrated Masonry); Kevin Gurklies (Kolsten AZ, LLC, DBA Kolsten Industrial); Scott McClure (Lewis, Brisbois, Bisgaard & Smith LLP) (Atty for Kolsten); George Ingleton and Karson Ingleton (Scopic Clean Construction, Inc); Lisa Hogle; Darin Perkins; Lea Bartynski (Snell & Wilmer); and Brian Riley (Morgan and Morgan) (Atty for Next of Kin). Also in attendance on the telephone, confirmed by roll call were Mensur Ramic and Mike Holland (Nolan Brothers, Inc. DBA Chattanooga Tent Co.); Anna Stephens (Next of Kin); Sharon Brown (Next of Kin) and Kaley Stone (Next of Kin).

Approval of Minutes of April 27, 2023 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the April 27, 2023 regular session meeting and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner LeMarr, 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. 2CSP22/23-0172 J.G. Sheet Metal and Roofing Pro LLC \$5,000

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. ABF Freight System, Inc.
2. Weyerhaeuser Company

Commissioner Everett moved to approve the items on the Consent Agenda and Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner LeMarr, 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 Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Nolan Brothers, Inc. DBA Chattanooga Tent Co. 1200 Wisdom St Chattanooga, TN 37406	Fatality Years in Business: 34 Empl. Covered by Inspection: 21
Site Location: 1 Cardinals Dr Glendale, AZ 85305	
Inspection No: FC-2023-A7717-0055	
Inspection Date: February 21, 2023	

SERIOUS – Citation 1 - Item 1 –

- a) East parking lot: One employee was exposed to fall hazard while dismantling a 15' tall event tent without an adequate fall protection system. 29 CFR 1926.501(b)(1)
- |                             |                                  |
|-----------------------------|----------------------------------|
| Div. Proposal - \$10,938.00 | Formula Amt. - \$10,938.00       |
| TOTAL PENALTY - \$10,938.00 | TOTAL FORMULA AMT. - \$10,938.00 |

Mr. Atencio discussed ADOSH's inspection, summarized the citation and proposed penalty, and reviewed the photographs.

Commissioner LeMarr and Mr. Atencio discussed photographs #4 and #5 showing the stakes and base plates used to tie off the fall protection.

Vice Chair Hennelly and Mr. Atencio discussed that while the police photos show the rope tied off to the hitch we do not have confirmation on who placed the rope on the hitch.

Chairman Kavanaugh checked if anyone on the phone would like to comment.

Mr. Holland with Nolan Brothers, Inc. dba Chattanooga Tent stated they have been and will be committed to the safety of their team at all levels. They have reached out to a consultant to improve their current fall protection program and plan to start training and implementing the changes by the middle of June. They are genuinely concerned for each and every team member and will strive to make safety their number one value.

















When he arrived at the jobsite nobody was tied off, some had harnesses on but were not tied off, so he stopped work for the day since it was going to rain. The following day he posted signs everywhere, stating "no harness no work".

Commissioner LeMarr asked Mr. Ingleton whether the employees on the roof who were not tied off were employees of Chispaso Roofing, and Mr. Ingleton replied some were employees of Chispaso Roofing and some were his employees.

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

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted the Commission received correspondence from Federal OSHA Region IX regarding the Regional Annual Consultation Evaluation Report ("RACER") acknowledging the successful year for Arizona and the State Plan with no findings issued in the evaluation period and therefore no action plan was necessary. Mr. Ashley explained the annual report and asked Mr. Atencio to outline some of the contents.

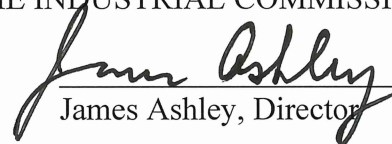
Public Comment.

There was no public comment.

The meeting was adjourned at 2:14 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary