

LA WORKERS' COMPENSATION SECOND INJURY BOARD

Meeting of January 11, 2018

The regular meeting of the Second Injury Board convened at 2:06 p.m.

The following were present:

1. Mr. Charles Hansberry, representing the Commissioner of Insurance, Chairman
2. Mr. Steve Hawkland, representing the Secretary of State, Vice-Chairman
3. Mr. Chip Coulter, representing the Children and Family Services
4. Meridith Trahan, Acting Director of Second Injury Board
5. Michelle Bradley, General Counsel
6. Darrick Lee, General Counsel
7. Michelle Sumrall, SIB Compliance Supervisor
8. Tiffany Mason, SIB Program Compliance Officer
9. Lakisha Johnson, SIB Program Compliance Officer

Mr. Hansberry called the meeting to order and began with *Item 1* on the agenda, being the reading of the minutes from the previous meeting. Mr. Hansberry asked for motion to dispense with the reading of the minutes and approve the minutes as printed and distributed. The motion was made by Mr. Hawkland and seconded by Mr. Coulter. There was no public comment. The motion passed unanimously.

Mr. Hawkland moved to *Item 2*, Hearing Requests. There were two listed on the agenda. The first item was Claim #16-0396. Mr. Gary Kern was present representing the employer/insurance carrier. Discussion was had regarding the basis for the denial recommendation and the process regarding the hearing review. Ms. Mason presented staff's position. Mr. Coulter made a motion that the request for a hearing is denied and the carrier be given clear explanation as to why the claim was recommended for denial and be given opportunity to submit the required information. The motion was seconded by Mr. Hawkland. There was no public comment at that time. The motion passed unanimously.

The Chairman moved to the second item listed under Hearing Requests, Claim #16-0793. Ms. Sumrall gave the basis for the denial recommendation. Mr. Coulter made a motion that the request for a hearing be denied, the carrier be given clear explanation as to why the claim was recommended for denial, and be given opportunity to submit the required information. The motion was seconded by Mr. Hawkland. There was no public comment at that time. The motion passed unanimously.

Item 3 on the agenda lists (3) claims where recommendations were made for payment starting with Claim #16-0769 and ending with Claim #17-0737. The motion to approve the claims for payment was made by Mr. Hawkland and seconded by Mr. Coulter. There was no public comment. The motion passed unanimously.

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|----|---------|---------------------------------------|---------------------|
| 1. | 16-0769 | Ace American Ins. Co | 104 week deductible |
| 2. | 17-0527 | Wal-Mart Associates, Inc. | 104 week deductible |
| 3. | 17-0737 | Dixie Electric Membership Corporation | 104 week deductible |

The Chairman moved to *Item 4* on the agenda, (68) claims recommended for denial, beginning with Claim #11-0622 and ending with Claim #17-0806. It was noted that item #18, Claim #16-0396 and item #31, Claim #16-0793 were removed due to being addressed in the Hearing Request portion of the meeting. A request was made for a motion to approve the recommendation to deny the claims as described in the January 11, 2018 agenda excluding items 18 and 31. The motion was made by Mr. Coulter and seconded by Mr. Hawkland. There were no public comments and the motion passed unanimously.

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|----------------|--------------------|---|-----------|
| 1. | 11-0622 | Unknown | |
| 2. | 13-1001 | Bridgefield Casualty Insurance Company | |
| 3. | 15-0125 | Unverified | |
| 4. | 15-0718 | Terrebonne Parish School Board | |
| 5. | 15-0752 | Louisiana Construction & Industry - Sif | |
| 6. | 15-0794 | Capital Area Transit System | |
| 7. | 15-0836 | Louisiana Home Builders Association SIF | |
| 8. | 15-0848 | Plantation Management Company, LLC | |
| 9. | 16-0045 | Willis-Knighton Medical Center | |
| 10. | 16-0057 | St. Tammany Parish School Board | |
| 11. | 16-0097 | Crum & Forster Insurance Company | |
| 12. | 16-0103 | LUBA Casualty Insurance Company | |
| 13. | 16-0169 | Louisiana Health Care SIF | |
| 14. | 16-0214 | Parish Government Risk Management Agency | |
| 15. | 16-0253 | LA Health Care- Self Ins. Fund | |
| 16. | 16-0304 | Federal Insurance Company / DBA Chubb Ins. | |
| 17. | 16-0310 | LA Workers' Compensation Corp. | |
| 18. | 16-0396 | Amtrust Ins. Co. of Kansas | REMOVED |
| 19. | 16-0456 | LA Automobile Dealers Assn. | |
| 20. | 16-0462 | Parish Government Risk Management Agency | POSTPONED |
| 21. | 16-0465 | LA Workers' Compensation Corp. | |
| 22. | 16-0468 | LA Workers' Compensation Corp. | |
| 23. | 16-0489 | Jefferson Parish Public School System | |
| 24. | 16-0555 | The Phoenix Insurance Company | |
| 25. | 16-0618 | Louisiana Workers' Compensation Corporation | |
| 26. | 16-0677 | St. Charles Parish School Board | |
| 27. | 16-0738 | Gray Insurance Company | |
| 28. | 16-0750 | Louisiana Workers' Compensation Corporation | |
| 29. | 16-0758 | St. Tammany Parish School Board | |
| 30. | 16-0765 | Louisiana Workers' Compensation Corporation | |
| 31. | 16-0793 | Dillard's, Inc. | REMOVED |
| 32. | 16-0831 | Bridgefield Casualty Insurance Company | |
| 33. | 17-0175 | St. Charles Parish School Board | |
| 34. | 17-0210 | LA Municipal Risk Mgmt. Agency | |
| 35. | 17-0240 | LUBA Casualty Insurance Company | |

36. 17-0267 LA Municipal Risk Mgmt. Agency
37. 17-0277 New Hampshire Insurance Company
38. 17-0283 LA Construction & Industry
39. 17-0286 Jefferson Parish Public School System
40. 17-0295 American Casualty of Reading, PA
41. 17-0298 Wal-Mart Associates, Inc.
42. 17-0307 Office of Risk Management
43. 17-0308 Travelers Group
44. 17-0313 Unverified
45. 17-0319 Unverified
46. 17-0322 Unknown
47. 17-0325 Parish Government Risk Management Agency
48. 17-0334 Office of Risk Management
49. 17-0337 Office of Risk Management
50. 17-0389 Unverified
51. 17-0392 LUBA Casualty Insurance Company
52. 17-0395 LUBA Casualty Insurance Company
53. 17-0401 Louisiana Workers' Compensation Corporation
54. 17-0407 Parish Government Risk Management Agency
55. 17-0412 Office of Risk Management
56. 17-0429 Jefferson Parish
57. 17-0433 LA Workers' Compensation Corp.
58. 17-0504 LA Construction & Industry
59. 17-0520 Wal-Mart Associates, Inc.
60. 17-0521 Wal-Mart Associates, Inc.
61. 17-0526 Wal-Mart Associates, Inc.
62. 17-0557 Wal-Mart Associates, Inc.
63. 17-0572 Wal-Mart Associates, Inc.
64. 17-0637 Wal-Mart Associates, Inc.
65. 17-0642 Commerce & Industry Insurance Company
66. 17-0664 Unverified
67. 17-0669 St. Tammany Parish School Board
68. 17-0806 CNA Insurance Company

The Chairman moved to *Item 5* on the agenda, being the recommendation to approve reimbursement of (284) partial payments beginning with Claim #77-0304 and ending with Claim #16-0693. Mr. Hansberry asked for a motion to accept the recommendation and approve reimbursement of the partial payments as submitted on the agenda of January 11, 2018. The motion was made by Mr. Hawkland and seconded by Mr. Coulter. There were no public comments. The motion passed unanimously.

The Chairman moved to *Item 6* on the agenda, being the recommendation to approve (84) quarterly payments due beginning with Claim #88-0204 and ending with Claim #15-0509. Mr. Coulter moved to accept the recommendation of staff and approve reimbursement of quarterly payments as

submitted on the agenda of January 11, 2018. The motion was seconded by Mr. Hawkland. There were no public comments. The motion passed unanimously.

The Chairman moved to *Item 7*, Public Comment. Mr. Peter Kopfinger returned this month to represent the employer, Ville Platte Concrete, on Claim #13-0072. The employer was insured by Louisiana Safety Association of Timbermen SIF (LSAT) which is now in bankruptcy. The employer is currently paying the workers' compensation benefits incurred on the claim and would like to settle with the employee with approval of the Second Injury Board. Mr. Kopfinger explained that any reimbursement would not be held by LSAT but would be released directly to the employer with SIB retaining an amount for assessment. He returned this month with an affidavit from John Luster, Trustee for Timbermen's bankruptcy estate, testifying the estate would not keep any money reimbursed on the claim. Mr. Hansberry stated the Board would take the matter under advisement during Executive Session. Mr. Kopfinger gave the Board copies of documents regarding the settlement agreement for review then left the room to allow the Board to enter Executive Session.

Mr. Hansberry then asked for a motion to go into Executive Session to discuss Second Injury Board litigation and settlements. Mr. Coulter made the motion. It was seconded by Mr. Hawkland and it passed unanimously.

Upon returning from Executive Session, the Chairman asked to return to *Item 4* to make note that #20, Claim #16-0462 was postponed. Mr. Hawkland made a motion to amend the agenda to reflect the postponement. Mr. Coulter seconded the motion and passed unanimously.

The Chairman then moved to *Item 8a* of the agenda, being settlement recommendations. The Chairman noted #9, Claim #15-0542, had been postponed. He then requested a motion to approve the recommendations of the Acting Director regarding settlement authority as discussed in Executive Session and to extend settlement authority to be reimbursed on quarterly basis for the following (5) claims.

1. 91-0324
2. 12-1041
3. 14-0457
4. 15-0847
5. 15-0880

Mr. Hawkland moved to accept the recommendation. The motion was seconded by Mr. Coulter. There were no public comments. The motion passed unanimously.

The following (5) claims were recommended for settlement denial and that they continue to be paid on an on-going basis:

1. 10-0562
2. 10-0693
3. 11-0445
4. 13-0072
5. 13-0140

Mr. Coulter moved to accept the recommendation. It was seconded by Mr. Hawkland. Mr. Kopfinger questioned if “on-going basis” meant as the bills get submitted, they get paid. Mr. Hansberry responded in the affirmative. With no other comments the motion passed unanimously.

The Chairman moved to *Item 8b* of the agenda, being Second Injury Board litigation. The Chairman asked for motion to grant authority to legal counsel to proceed in the manner shown on the following claims, as discussed in Executive Session.

1. Claim #12-1034 Settlement Authority
2. Claim #13-0134 Continued Litigation
3. Claim #14-0056 Continued Litigation
4. Claim #14-0122 Continued Litigation
5. Claim #14-0380 Continued Litigation
6. Claim #14-0750 Continued Litigation
7. Claim #15-0212 Continued Litigation
8. Claim #15-0238 Settlement Authority
9. Claim #15-0489 Settlement Authority
10. Claim #15-0714 Settlement Authority
11. Claim #16-0094 Settlement Authority
12. Claim #16-0261 Continued Litigation
13. Claim #16-0467 Settlement Authority
14. Claim #16-0615 Settlement Authority
15. Claim #16-0781 Settlement Authority
16. Claim #16-0801 Settlement Authority

The motion was made by Mr. Hawkland and seconded by Mr. Coulter. There were no comments from the public. The motion passed unanimously.

The Chairman moved to *Item 9*, asking if there were any other matters to discuss. There were no other matters to discuss; therefore, the Chairman asked for a motion to adjourn. Mr. Coulter asked if the Board had addressed Mr. Kopfinger’s matter. Mr. Hansberry quoted R.S. 23:1377 C (3) regarding eligibility for reimbursement. He stated the Board’s position is the employer is not eligible for reimbursement from the Fund at this time. Mr. Kopfinger disputed the decision of the Board. After

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further discussion, Mr. Hansberry stated the final decision of the Board is the settlement is not a good financial decision for the Fund. Mr. Hansberry again asked for a motion to adjourn. Mr. Hawkland moved to adjourn. The motion was seconded by Mr. Hawkland. With no further comments from the public, the motion passed unanimously and the meeting was adjourned.

The meeting was adjourned at 3:40 pm

Recording Secretary: Michelle Sumrall