

ORIGINAL

1 **THE BOARD FOR ADMINISTRATION OF THE**
2 **SUBSEQUENT INJURY ACCOUNT**
3 **FOR THE ASSOCIATIONS OF**
4 **SELF-INSURED PUBLIC AND PRIVATE EMPLOYERS**

5 In re: Subsequent Injury Request for Reimbursement

6	Claim No.:	5001-0305-02-0009
7	Date of Injury:	October 16, 2002
8	Association Name:	Nevada Transportation Network
9	Association Member:	Northeast Masonry
10	Association Administrator:	ProGroup Management
11	Third-Party Administrator:	Associated Risk Management, Inc.
12	Application Submitted by:	Pro/Group Management, Inc.
13	Attorney for Applicant:	Richard S. Staub

14 **FINDINGS OF FACT**
15 **CONCLUSIONS OF LAW**
16 **AND DETERMINATION OF THE BOARD**

17 This case came on for hearing on October 11, 2007, before the Board for the
18 Administration of the Subsequent Injury Account for the Associations of Self-Insured Public and
19 Private Employers (the Board). After hearing from the applicant's legal counsel and the
20 Administrator for the Division of Industrial Relations (the Administrator), the Board voted to
21 continue the matter to give the applicant the opportunity to locate written documentary evidence
22 contemporaneous with the decision to hire or retain the injured worker in its employ and,
23 therefore, to satisfy the written records requirement of NRS 616B.578(4)¹, quoted in full, below
24 in the margin, the only eligibility requirement at issue in this case. As stated there, NRS
25 616B.578(4), requires an applicant to show proof by written records, it had knowledge of the
26 injured worker's preexisting permanent physical impairment at the time of hire or that it retained
27 the injured worker in its employ, after it acquired knowledge of the preexisting permanent
28 physical impairment.

¹To qualify under this section for reimbursement from the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers, the association of self-insured public or private employers must establish by written records that the employer had knowledge of the "permanent physical impairment" at the time the employee was hired or that the employee was retained in employment after the employer acquired such knowledge. NRS 616B.578(4).

1 The matter was heard again on November 8, 2007, at which time the applicant revealed
2 no more information could be located that purportedly satisfied the requirements of NRS
3 616B.578(4), other than that which it had already submitted to the Board. The applicant was
4 obliged, then, to rely upon the material it had submitted to the Board on October 11, 2007, which
5 consisted of written material generated after the subsequent industrial injury for inclusion in the
6 application for reimbursement in an attempt to meet the requirements of NRS 616B.578(4).

7 The applicant was, therefore, unable produce the documentary evidence of knowledge of
8 the preexisting condition generated by the time of hire, or while the injured worker was retained
9 in the applicant's employ as the proof by written records provision of NRS 616B.578(4)
10 requires. Thus, the Board voted to deny the application for reimbursement as explained below.

11 FINDINGS OF FACT

12 1. This case was first heard before the Board on June 14, 2007, upon the
13 recommendation of the Administrator to accept the application for reimbursement. The Board,
14 however, rejected the application for reimbursement and denied the claim.

15 2. In a letter dated July 3, 2007, from the Board's legal counsel, notification was
16 given to the applicant of the Board's rejection of the application and the opportunity for the
17 applicant to appeal this denial of the application.

18 3. In a letter dated July 12, 2007, faxed to the Board's legal counsel, Charles R. Zeh,
19 Esq., on that date, the applicant, through its legal counsel, Richard S. Staub, Esq., Attorney-at-
20 Law, advised that the applicant wished to appeal the denial of the applicant's application for
21 reimbursement.

22 4. Upon the applicant's appeal, the case was first heard by the Board on October 11,
23 2007, when the Board conducted a *de novo* review, with a court reporter being present to record
24 the applicant's challenge to the Administrator's revised recommendation calling for denial of the
25 request for reimbursement because NRS 616B.578(4) was not satisfied. 1 Tr.², 9; 9-20. The
26 appeal also challenged the Board's initial denial of the application, contrary to the
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28 ²"1 Tr." refers to the transcript of the hearing on October 11, 2007. "2 Tr." refers to the transcript
of the hearing on November 8, 2007.

1 Administrator's original recommendation of acceptance of this claim. Staff Report, 5/11/2007,
2 p. 1.

3 5. In response to the applicant's request through legal counsel to be permitted to
4 query the employer about records generated contemporaneous with the decision to hire and/or
5 retain the injured worker in its employ, 1Tr., 24; 23-25, 25; 1-14, the Board voted to continue the
6 matter and allow the applicant the opportunity to supplement the record on the proof of
7 knowledge by written record requirement of NRS 616B.578(4). 1 Tr., 27, 28.

8 6. The matter was then heard again on November 8, 2007. 2 Tr., 1.

9 7. Those members of the Board present at the October 11, 2007, hearing were Joyce
10 Smith, Vice-chairman (by telephone) and acting Chairman for the hearing, member Ron Ryan,
11 and member Emilia Hooks (in person, respectively). 1 Tr. 2

12 8. Also present in person on October 11, 2007, were the Administrator's legal
13 counsel, John Wiles, Esq., the Administrator's liaison to the Board, Jacque Everhart, and the
14 Board's legal counsel, Charles R. Zeh, Esq. *Ibid.*

15 9. Appearing on October 11, 2007, from Carson City, Nevada, by telephone was the
16 applicant's legal counsel, Richard Staub, Esq.

17 10. Those members of the Board appearing on November 8, 2007, were Richard
18 Iannone, Chairman, Joyce Smith, Vice-Chairman, and Emilia Hooks, member. Vice-Chairman
19 Smith appeared by telephone from Carson City. 2 Tr., 2.

20 11. Chairman Iannone did not participate in the hearing of October 11, 2007, and
21 therefore, he became eligible to hear this matter at the November 8, 2007, hearing because he
22 read the transcript of the previous hearing, in addition to all documentary evidence a part of the
23 record. 2 Tr. 4; 18-24.

24 12. Also appearing at the hearing on November 8, 2007, were Mr. Wiles, Ms.
25 Everhart and Mr. Zeh. Richard Staub, Esq., appeared by telephone from Carson City. *Ibid.*

26 13. The association name for this matter is Nevada Transportation Network.

27 14. The association member for this matter is Northeast Masonry.

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1 15. The matter was submitted by Pro Group Management, the association
2 administrator for this matter.

3 16. The third-party administrator for this matter is Associated Risk Management, Inc.

4 17. At the hearing of October 11, 2007, the following exhibits were admitted into
5 evidence without objection, 1 Tr., 7:

6 Exhibit 1: The Administrator's Staff Report (SR) dated May 11, 2007, and set of
7 attachments A through S and a one page disallowance report, 1 Tr., 5; 10-14;

8 Exhibit 2: The employer's prehearing statement dated September 25, 2007, *Id.*, at 5;
9 15-16;

10 Exhibit 3: The employer's first supplemental package, which contains an affidavit
11 from the employer dated June 29, 2007, *Id.*, at 5; 17-19;

12 Exhibit 4: The employer's second supplemental package dated October 9, 2007,
13 which contained an affidavit of the owner of the employer, Paul
14 Holloway, *Id.*, at 5; 20-24;

15 Exhibit 5: A letter from the office of Richard S. Staub, Esq., dated July 12, 2007,
16 received in the office of the Board's legal counsel on July 13, 2007, *Id.*, at
17 5; 24-25, 6; 1-4;

18 Exhibit 6: A letter dated July 3, 2007, notifying the applicant of the Board's adverse
19 decision of June 14, 2006, *Id.*, at 6; 5-10.

20 18. The injured worker was hired by the employer in this case on September 11,
21 1998.

22 19. The injured worker suffered the subsequent industrial injury to his back on
23 October 16, 2002.

24 20. Following the subsequent injury, the injured worker never returned back to work
25 with the employer. 1 Tr., 26; 19-24.

26 21. Proof by written record of knowledge of the employee's preexisting permanent
27 physical impairment either at the time of hire or during the period of employment from the date
28 of hire to the date of the subsequent industrial injury would be required of the employer in order
to sustain a claim for reimbursement from the Account, inasmuch as the injured worker never
returned to work following the subsequent industrial injury. *See*, NRS 616B.578(4). Under
these circumstances, the applicant must show by contemporaneously generated written records,

1 the injured worker was either hired with knowledge of the preexisting permanent physical
2 impairment, or after hire, he was retained with knowledge of the preexisting permanent
3 impairment prior to the subsequent injury. If neither is shown, the application must be rejected
4 on the grounds of NRS 616B.578(4), alone.

5 22. The Administrator, while originally recommending acceptance of the claim, *see*, 1
6 Tr., 10; 3-9, by October 11, 2007, recommended denial of the claim for failure to meet the
7 requirements of NRS 616B.578(4). 1 Tr., 9; 9-21.

8 23. The Administrator had received from the applicant to satisfy the proof by written
9 record requirement of NRS 616B.578(4), a letter from the employer's office manager claiming
10 that the owner of the company had knowledge of the injured worker's prior back condition at the
11 time of hire. 1 Tr., 8; 16-21. The letter is dated February 19, 2004, or 16 months after the date
12 of the subsequent injury, *see, Ibid.*, and thus, 16 months after the last date that the injured
13 employee worked for the employer, given that following the industrial injury, the injured worker
14 never returned to work. 1 Tr.26; 19-24.

15 24. The Administrator also had in the file, a statement from the injured worker that
16 was undated and in it, the injured worker said he knew the employer before he was hired and that
17 the employer was well aware of the injured worker's preexisting back condition. 1 Tr., 8; 24-25,
18 9;1-8. There was no claim from the employer that the undated letter preceded the date of the
19 subsequent industrial injury.

20 25. Consequently, with these documents in the record before the Administrator to
21 satisfy the proof of knowledge by written record rule of NRS 616B.578(4), the Administrator
22 recommended denial of the application, because NRS 616B.578(4) was not satisfied for the
23 simple reason that the statute requires real time written knowledge of the preexisting condition to
24 show that the employer either knew of the preexisting condition at the time of hire or while
25 retaining the employee in its employ. 1 Tr. 9; 9-21.

26 26. The employer, through legal counsel, first pointed out that offered into evidence
27 in addition to the two documents discussed above, were two affidavits from the owner of the
28 company, indicating that the owner knew the injured worker before he hired him, that they had

1 been competitors in the same business, and that he was aware of his prior back problems. 1 Tr.,
2 10; 21-25.

3 27. In addition, the owner claimed in one of the affidavits that because of the injured
4 worker's preexisting back condition, the employer made adjustments in work schedules to
5 accommodate the injured worker's preexisting back condition. 1 Tr. 11; 8-16.

6 28. The Board noted, also, that the exhibit packet offered into evidence mentioned
7 that the injured worker had undergone several months of treatment for his preexisting condition,
8 after he was hired by the employer. 1 Tr., 16; 17-21.

9 29. The Board then asked whether there was any back up records to support this
10 claim. 1 Tr., 16; 22.

11 30. Legal counsel for the applicant stated he was unaware of any documentation to
12 back up the claim that the injured worker had undergone several months of treatment for his
13 preexisting condition after he was hired by the employer. 1 Tr., 17;1. He also said, those
14 records could certainly be provided. 1 Tr., 18; 13-14.

15 31. Counsel for the applicant, however, admitted that the record before the Board
16 during the hearing of October 11, 2007, was devoid of a written record generated at the time of
17 hire or during the period the injured worker was retained in employment prior to the subsequent
18 industrial injury that contained information about the preexisting permanent physical impairment
19 to prove knowledge of the condition at the time of hire or during the period the injured worker
20 was employed by the applicant. 1 Tr. 11; 24-25. The employer did not have in the personnel file
21 or any place else, prior to hire or during the time the injured worker was employed by the
22 applicant, specific documentation of the employer's knowledge of the preexisting condition. 1
23 Tr., 11; 25, 12; 1.

24 32. The applicant further conceded during the hearing on October 11, 2007, that the
25 letter of the statute, NRS 616B.578(4) was not complied with by the applicant. 1 Tr., 12; 8-9.

26 33. During the course of the hearing of October 11, 2007, the applicant therefore,
27 relied exclusively upon documents created sixteen months or more after date of the subsequent

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1 industrial injury when the injured worker was no longer employed by the applicant, to satisfy the
2 proof of knowledge by written record requirement of NRS 616B.578(4).

3 34. The applicant offered to the Board a "substantial compliance" argument to justify
4 satisfaction with NRS 616B.578(4). The applicant argued that these "after acquired" or "after
5 generated" documents showed that the employer really did know about the preexisting
6 permanent physical impairment both at the time of hire and while the injured worker was
7 retained in employment prior to the time the subsequent industrial injury occurred, and therefore,
8 even though there was a failure to meet the express terms of NRS 616B.578(4), the employer did
9 what the employer was supposed to be do and compensation should follow. The employer
10 should not be penalized for failing to meet what the employer claimed were the technical
11 requirements of NRS 616B.578(4).

12 35. The employer therefore, encouraged the Board to not let the language of NRS
13 616B.578(4) get in its way and prevent it from finding compliance because the spirit of NRS
14 616B.578(4) was met, at the very least. 1 Tr., 12; 8-25, 13;1-7. 24; 13-22.

15 36. The Administrator argued to the Board that it was not the function of the Board to
16 rewrite the statute by ignoring its plain terms to get the result that the applicant desires. The
17 plain meaning of NRS 616B.578(4) requires real time records proving knowledge of the
18 preexisting condition at the time of hire or while the individual was retained. Self-serving
19 documents generated long after the fact of employment or hire are not what the Legislature
20 intended was acceptable proof of knowledge. They are not the kind of record of knowledge the
21 Legislature intended according to the plain reading of the statute to avoid disputes like that
22 presently being waged before the Board. The most objective proof of knowledge are written
23 records of the preexisting permanent condition that were generated by the time of hire or while
24 the injured worker was employed which are also the natural by-product of the applicant's
25 business. This is the antecedent to NRS 616B.578(4), and its plain wording must be followed,
26 according to the Administrator's legal counsel. 1 Tr., 21; 14-25, 20;1-14.

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37. The applicant's legal counsel then requested that the hearing of October 11, 2007, be continued to allow the applicant to search the files and records to locate written proof about the accommodations made to the injured worker's preexisting back condition while he was employed by the applicant and any other records generated then to establish a record of knowledge of the preexisting condition at the time of employment or at the time of hire. 1 Tr., 24; 23-25, 24; 1-14.

38. Upon a motion of Member Ron Ryan, seconded by Member Emilia Hooks, the Board voted to continue the hearing to give the applicant more time to locate written records that would satisfy NRS 616B.578(4). The motion was adopted, 3-0. 1 Tr., 27; 6-25, 28; 1-2.

39. When the hearing was reconvened on November 8, 2008, legal counsel reported back to the Board that the employer could locate no written records generated by the time of hire or while the injured worker was employed by the applicant, to support the knowledge requirements of NRS 616B.578(4). The state of the record remained as before, with only after acquired or generated documentation offered to prove by written record, knowledge of the preexisting condition at the time of hire or while the injured worker was retained in the applicant's employ. 2 Tr., 6; 19-25, 7; 1-3.

40. The applicant acknowledged therefore, it was again resorting to the "spirit of the statute" argument previously asserted. 2 Tr., 7; 22-25, 8; 1-3.

41. The only documentation offered by the applicant to satisfy NRS 616B.578(4) consisted of written records generated long after the injured employee was no longer in the applicant's employ.

42. To the extent any of the following Conclusions of Law constitute findings of fact, they are incorporated herein.

CONCLUSIONS OF LAW

1. To the extent any of the preceding Findings of Fact constitute Conclusions of Law, they are incorporated herein.

2. Northeast Masonry filed a timely request for a hearing to contest the Board's decision of June 14, 2007. See, NAC 616B.7779(2).

1 3. A quorum of the Board was present at all pertinent times to hear this case and
2 render its decision. NRS 616B.572(1).

3 4. The burden of proof lies with the applicant to show that the eligibility criterion set
4 out in NRS 616B.578 have been satisfied by a preponderance of the evidence. *See, United*
5 *Exposition Service v. State Industrial Insurance System*, 109 Nev. 421, 424, 851 P.2d 423
6 (1993); *McClanahan v. Raley's, Inc.*, 117 Nev. 921, 34 P.3d 573, 576 (2001).

7 5. NRS 616B.578(4) quoted in the margin, *supra*, footnote 1, is the statute
8 implicated by this appeal. There is no dispute that the applicant satisfied the remaining sections
9 of NRS 616B.578. The challenge to NRS 616B.578(4) raises a matter of statutory interpretation
10 as the underlying facts are not in dispute.

11 6. Upon review of this statute, the Board finds that the language pertinent to
12 this inquiry is unambiguous. Therefore, the interpretation of NRS 616B.578(4) begins
13 with the wording of the statute, itself, as the place of origin for its meaning. *See, Nevada*
14 *Dept. of Bus. and Industry v. Granite Co*, 118 Nev. 83, 40 P.3d 423, 426 (2002). It is also
15 true that where the legislature's intent is clear, "... that is the end of the matter; for the court as
16 well as the agency [or in this case, the Board] must give effect to the unambiguously expressed
17 intent of Congress [or the legislature]." *Chevron U.S.A., Inc. v. Natural Resources Defense*
18 *Council, Inc.*, 467 U. S. 837, 843-844 (1984). The words used must also be assigned their plain
19 and ordinary meaning. *See, Barrick Goldstrike Mines v. Peterson*, 116 Nev. 541, 545 (2000).

20 7. These are some of the pertinent legal principles which guide the Board in this
21 case.

22 8. This case rises and falls upon the meaning of NRS 616B.578(4) where the "proof
23 by written record" clause is found. Any fair reading of NRS 616B.578(4) reveals that its proof
24 by written record clause requires an applicant to show by credible documentation in its
25 possession at the time of hire or afterwards, while the injured worker is retained in the applicant's
26 employ, that the applicant knew of the preexisting permanent physical impairment and the
27 applicant elected to hire or retain the injured worker in its employ, anyway, knowledge of the
28 preexisting permanent physical impairment notwithstanding.

1 9. The applicant concedes it had no written record of the injured worker's
2 preexisting condition in its possession at the time of hire or while the injured worker was
3 retained in the applicant's employ prior to the date of the subsequent injury. Rather, the written
4 materials the applicant relies upon to fulfill the "proof by written record" provision of NRS
5 616B.578(4), were generated following the subsequent industrial injury and while the injured
6 worker was no longer in the applicant's employ because following the subsequent industrial
7 injury, the injured worker never worked again for the applicant.

8 10. The Board understands the "proof of knowledge by written record" provision of
9 NRS 616B.578(4) requires proof the written record relied upon to show knowledge of the
10 preexisting condition was in existence at the time the decision to hire or retain the injured worker
11 was made so that there is written documentation, contemporaneous with decision to hire or to
12 retain, from which the Board might deduce that the employer hired or kept the injured worker in
13 its employ with knowledge of the preexisting condition.

14 11. Subsequently generated affidavits, letters and other documentation such as that
15 offered by the applicant, here, do not meet the requirements of NRS 616B.578(4). If
16 subsequently generated written records were sufficient, there would have been no reason for the
17 Legislature to have inserted this written record requirement into the statute in the first place
18 because an affidavit created after the fact is no different than sworn, oral testimony given during
19 the course of a hearing. Both are forms of sworn testimony.

20 12. Simply appearing to testify under oath would amount to the same act as the
21 submission of an affidavit. Thus, unless the Legislature intended to require applicants to
22 undertake the meaningless exercise of writing an affidavit when simply showing up to testify at a
23 hearing would accomplish exactly the same thing, the written record provision of NRS
24 616B.578(4) must require more than the submission of a subsequently drafted affidavit
25 professing knowledge of the preexisting condition at the time of retention or hire.

26 13. Since the Board believes that the Legislature did not intend to force employers to
27 engage in the meaningless exercise of drafting an affidavit when testifying at the hearing would
28 accomplish the same thing, the Board, therefore, concludes that the written record provision

1 requires the employer to show by written records generated contemporaneous with the
2 employment decisions at issue, the employer was aware of the preexisting permanent physical
3 condition when the decision to hire or the decision to retain the injured worker was made.

4 14. Acknowledging lack of proof of the type required by the plain reading of NRS
5 616B.578(4), the applicant claims that the kind of proof it supplied at least complies with the
6 "spirit" of NRS 616B.578 and that compliance with the spirit of the statute is sufficient for
7 purposes of the Account.

8 15. Setting aside that the applicant is even correct when arguing that it satisfied the
9 spirit of NRS 616B.578(4), *Arnold v. Tyson Foods, Inc.*, 614 S.W.2d 43 (Tenn. 1981) is
10 dispositive of this argument that proof which satisfies the spirit but not the actual requirement of
11 NRS 616B.578(4) is enough to show entitlement to reimbursement. There, the injured worker's
12 pre-existing condition was patent. Tyson's management also had actual knowledge of the pre-
13 existing condition, but conceded it had no written record of the pre-existing condition. *Id.*, at 45.
14 Tyson relied upon the actual knowledge and patent nature of the condition to argue, proof by
15 written knowledge of the pre-existing impairment was redundant and not required. *Ibid.*

16 16. The Tennessee Supreme Court disagreed, holding that actual knowledge of a pre-
17 existing condition that is patent is no substitute for the written record requirement. The court
18 said: "We cannot disregard the written notice requirement of the statute and are, therefore,
19 constrained to find that the appellants [Tyson] have failed to comply with the statutory
20 requirements of the Second Injury Fund." *Ibid.* This Board is constrained to follow Tyson's
21 holding.

22 17. There is, however, more on this subject. In *Alaska International Constructors,*
23 *etc. v. State of Alaska, Second Injury Fund*, 755 P.2d 1090 (Alaska 1988), the Court explained
24 the reason for Alaska's written record requirement.

25 18. First, it protects against collusive claims by providing evidence that the employer
26 actually knew of the preexisting impairment, so that the statutory purpose is furthered. Second,
27 it avoids the need to litigate whether the employer actually did have knowledge of the
28 preexisting condition. *Id.*, at 1093.

1 19. Nevada's written record requirement parallels Alaska's. Thus, *Alaska*
2 *International* rules out the applicant's attempt, here, to argue also that it should be able to satisfy
3 the proof by written record requirement with self-serving documentation composed after the fact
4 and in whole or in part, composed as an attempt to justify the claim for reimbursement.

5 20. The rationale behind the provision can, thus, be seen. The Legislature was
6 interested in streamlining the process for securing reimbursement, on the one hand. On the other,
7 the Legislature did not want to put the Board in a position where it would necessarily have to
8 question the integrity of documents generated in anticipation of a hearing on the application for
9 reimbursement which might be considered self-serving in nature and, thus, of questionable
10 credibility. The Legislature clearly embraced the view that documents generated as the natural
11 bi-product of the business being conducted are more reliable than a document an applicant might
12 create to justify an application for reimbursement.

13 21. The Board believes, therefore, that its reading of NRS 616B.578(4) is also
14 consistent with the "spirit" of the statutory scheme and that the applicant is incorrect, when
15 claiming that the proof it offered met the "spirit" of NRS 616B.578(4).

16 22. Accordingly, the Board finds wanting the application for reimbursement in this
17 case. The applicant is incapable of satisfying the proof of knowledge provision of NRS
18 616B.578(4) because the applicant admits it offers only written materials generated after the
19 subsequent industrial injury and while the injured worker was no longer its employ.

20 23. NRS 616B.578(4) is not satisfied when, as here, documentation fails to create as
21 of the time of hire or retention, a record from which it can be established that the employer
22 knew, when deciding to hire or retain the injured worker, about the injured worker's preexisting
23 permanent physical impairment and the employer decided to hire the injured worker or retain the
24 injured worker, anyway. Since the applicant admittedly only has documents to satisfy NRS
25 616B.578(4) generated after the injured worker suffered the subsequent injury and then left the
26 applicant's employ, the application for reimbursement must be denied.

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DECISION

1. It was accordingly moved at the hearing of November 8, 2007, by Joyce Smith, seconded by Emilia Hooks, to reject the application for reimbursement because the applicant failed to satisfy the proof by written record provision of NRS616B.578(4).

2. The motion was adopted by a vote of 3 in favor of the motion, 0 voting against the motion.

3. At the meeting on July 8, 2010, with a quorum being present, upon a motion of Emilia Hooks, seconded by Joyce Smith, the Board voted 3 in favor and 0 against with 2 abstentions, to approve these Findings of Fact, Conclusions of Law and Decision as the action of the Board. Members Lau and Hoolihan abstained because they were not members of the Board when this matter was heard and decided. They took no part in the deliberations on this motion.

Dated this 10th day of August, 2010.


By: 
Richard Iannone, Board Chairperson

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices of ZEH & WINOGRAD, and that on this date I served the attached, *Findings of Fact Conclusions of Law And Determination of the Board*, on those parties identified below by:

√	Placing an original or true copy thereof in a sealed envelope, postage prepaid, placed for collection and mailing in the United States Mail, at Reno, Nevada: Richard S. Staub Attorney at Law Post Office Box 392 Carson City, NV 89702 John F. Wiles, Division Counsel Department of Business and Industry Division of Industrial Relations 1301 North Green Valley Parkway, Suite 200 Henderson, NV 89104
	Personal delivery
	Telephonic Facsimile at the following numbers:
	Federal Express or other overnight delivery
	Reno-Carson Messenger Service
√	Certified Mail/Return Receipt Requested: Richard S. Staub Attorney at Law Post Office Box 392 Carson City, NV 89702 John F. Wiles, Division Counsel Department of Business and Industry Division of Industrial Relations 1301 North Green Valley Parkway, Suite 200 Henderson, NV 89104

Dated this 6th day of August, 2010.


Karen Kennedy

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