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TRANSCRIPT MINUTES

MEETING OF THE  
STATE OF NEVADA  
BOARD FOR THE ADMINISTRATION OF THE  
SUBSEQUENT INJURY ACCOUNT FOR  
ASSOCIATIONS OF SELF-INSURED PUBLIC OR PRIVATE EMPLOYERS

Thursday, July 22, 2021  
10:00 a.m.

3360 West Sahara Avenue, Suite 250  
Las Vegas, Nevada, 89102  
in the Executive Video Conference Room  
and with telephone participation

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A P P E A R A N C E S

For the Board:

Rebecca Fountain (phone)  
Board Chair, Member

Allen Walker (phone)  
Board Member

Joyce Smith (phone)  
Board Member

Donald Bordelove, Esq. (phone)  
Deputy Attorney General  
Board Counsel

For the Division of Industrial Relations:

Christopher A. Eccles, Esq. (phone)  
Counsel for DIR

For the Administrator of the DIR:

Vanessa Skrinjaric (Las Vegas)  
Compliance Audit Investigator  
Division of Industrial Relations  
Workers' Compensation Section

Also Present:

Larae Polson (phone)  
Associated Risk Management

Richard S. Staub, Esq. (phone)

Robert Balkenbush, Esq. (phone)

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THURSDAY, JULY 22, 2021, 10:06 A.M.

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BOARD CHAIR FOUNTAIN: Calling the meeting to order for the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers, starting at 10:06 a.m.

MS. SKRINJARIC: Okay.

BOARD CHAIR FOUNTAIN: Items of the -- I guess, I'm supposed to start, items of the agenda may be taken out of order. The Board may combine two or more agenda items for consideration. And the Board may remove any item on the agenda at any time.

And, Vanessa, could you do roll call, please.

MS. SKRINJARIC: Sure. Present in Las Vegas, this is Vanessa Skrinjaric for the Division of Industrial Relations.

Rebecca Fountain?

BOARD MEMBER FOUNTAIN: Here.

MS. SKRINJARIC: Joyce Smith?

BOARD MEMBER SMITH: Present.

MS. SKRINJARIC: Allen Walker? Allen? I think, you're on mute.

BOARD MEMBER WALKER: Present.

MS. SKRINJARIC: Okay.

1 BOARD MEMBER WALKER: Sorry about that.

2 MS. SKRINJARIC: Yeah. All right. Thank you.

3 Donald Bordelove?

4 MR. BORDELOVE: Present.

5 MS. SKRINJARIC: Christopher Eccles?

6 MR. ECCLES: Here.

7 MS. SKRINJARIC: Okay. And also present on the

8 phone we have Larae Polson?

9 MS. POLSON: Here.

10 MS. SKRINJARIC: Okay. And Mr. Staub?

11 MR. STAUB: I'm present.

12 MS. SKRINJARIC: Okay. I don't think we have

13 anyone else on the phone. Is that correct?

14 MR. BALKENBUSH: Robert Balkenbush is present.

15 MS. SKRINJARIC: Oh. Sorry. I did not hear

16 you get on the phone.

17 MR. BALKENBUSH: Thank you, Vanessa.

18 MS. SKRINJARIC: Okay. You're welcome. I knew

19 you said you would be present. I just didn't hear you.

20 Sorry about that.

21 MR. BALKENBUSH: That's okay.

22 MS. SKRINJARIC: Okay. And, I think, that's

23 all. We have nobody else here in Las Vegas.

24 BOARD CHAIR FOUNTAIN: Okay. Proceeding, is

25 there any public comment at this time?

1 MS. SKRINJARIC: No public.

2 BOARD CHAIR FOUNTAIN: All right. Then -- I'm  
3 sorry?

4 MS. SKRINJARIC: No public present.

5 BOARD CHAIR FOUNTAIN: Okay. And hearing none,  
6 we'll move on to item number 3. Now, this is where I  
7 wasn't at the last meeting. So I would not be able to  
8 vote or approve this. And I don't know that we would  
9 actually have a quorum for it to be approved. But it's  
10 the approval of the agenda, for possible action.

11 MS. SKRINJARIC: Well, the agenda is what I  
12 have presented in front of you today. So at this time,  
13 there are no changes to the agenda. So if everyone is  
14 okay with the agenda, I think, you can take a motion.

15 BOARD CHAIR FOUNTAIN: All right. Is there a  
16 motion to approve the agenda?

17 BOARD MEMBER SMITH: I motion to approve the  
18 agenda.

19 BOARD MEMBER WALKER: I'd second it.

20 BOARD CHAIR FOUNTAIN: All in favor?

21 (Board members said "aye.")

22 BOARD CHAIR FOUNTAIN: The motion passed.

23 And I'm sorry, Vanessa. I was looking at  
24 minutes when I said that on the agenda. So approval of  
25 minutes for the May 20th, 2021, for possible action. I

1 was not present at that meeting.

2 MS. SKRINJARIC: So I'll let Mr. Bordelove  
3 address that. Apparently -- Donald, do you want to  
4 explain it, if they've actually read the minutes, they  
5 can vote on the minutes even if they weren't there?

6 MR. BORDELOVE: Yeah, exactly. That's how the  
7 A.G.'s Office has interpreted it. So, Rebecca, you can  
8 vote on it, assuming you've reviewed the minutes. If  
9 you didn't have time to review the minutes, you know, we  
10 can put it to the next meeting.

11 BOARD CHAIR FOUNTAIN: Okay. Thank you for  
12 that. I have not reviewed the minutes, unfortunately.  
13 So could we move this to the next meeting?

14 MS. SKRINJARIC: Sure. I will put that on the  
15 agenda for the next meeting.

16 BOARD CHAIR FOUNTAIN: All right. Thank you,  
17 Vanessa.

18 MS. SKRINJARIC: Sure. Let me do that.

19 BOARD CHAIR FOUNTAIN: Item, moving on to item  
20 number 5, action on a recommendation of the  
21 Administrator of the Division of Industrial Relations  
22 for denial of the following requests for reimbursement  
23 from the Subsequent Injury Account for Associations of  
24 Self-Insured Public or Private Employers.

25 Item number a., 5003-0215-2018-0230, Nevada



1 Beverage, for possible action.

2 MS. SKRINJARIC: Okay. The Association is  
3 Nevada Auto Network. Does anyone have any disclosures  
4 on this matter?

5 BOARD MEMBER WALKER: No.

6 BOARD MEMBER SMITH: No.

7 MS. SKRINJARIC: Okay. It is the  
8 Administrator's recommendation to deny this request  
9 pursuant to NRS 616B.578, subsection 4, for the lumbar  
10 spine.

11 The total amount requested for reimbursement is  
12 \$26,741.67. The amount of reimbursement, after costs  
13 were verified, is \$26,380.57. An explanation of the  
14 disallowance is attached to this recommendation memo.

15 This request was received from Associated Risk  
16 Management, Inc. on November 9th, 2020.

17 Prior history.

18 This employee was hired as a driver on  
19 July 12th, 2004. On September 17th, 2013, he was doing  
20 inventory in the back of a truck when the driver of the  
21 truck moved the vehicle. The employee hit his head and  
22 his momentum threw him out of the back of the truck. He  
23 was seen at Concentra that same day. He was diagnosed  
24 with cervical/thoracic strain/concussion, right shoulder  
25 injury and head contusion. Physical therapy was

1 ordered.

2           The prior history will be taken from  
3 Dr. Quaglieri's PPD report penned on October 9th, 2014.

4           The employee had an MR arthrogram of the right  
5 shoulder on October 22nd, 2013 which showed a  
6 partial-thickness tear of the supraspinatus tendon and  
7 the infraspinatus tendon. There was no significant  
8 labral tear. The employees began physical therapy and  
9 treatment with Dr. Dettling.

10           On December 20th, 2013, Dr. Dettling performed  
11 a right shoulder arthroscopic subacromial debridement.

12           On January 24th, 2014, the employee saw  
13 Dr. Peoples with complaints of pain from his head to his  
14 tailbone. Dr. Peoples recommended transfer of care to a  
15 physiatrist.

16           On April 1st, 2014, Dr. Siegler saw the  
17 employee for pain in his wrist and low back. An MRI of  
18 the right tib/fib on April 12th, 2014, revealed a  
19 Baker's cyst. An MRI of the lumbar spine on April 26,  
20 2014 showed diffuse prominent epidural fat narrowing the  
21 thecal sac, otherwise no focal disc herniation or  
22 foraminal stenosis were seen. On May 7, 2014,  
23 Dr. Siegler recommended continued physical therapy.

24           On September 5th, 2014, Dr. Chin evaluated the  
25 employee. The employee did not have any pain

1 complaints. He was ready to go back to work. He had  
2 full range of motion in the cervical, thoracic and  
3 lumbar spine in flexion, extension and rotation.

4 Dr. Quaglieri performed his PPD evaluation on  
5 October 9th, 2014. He felt the employee had a 6 percent  
6 whole person impairment for the right shoulder,  
7 6 percent whole person impairment for the lumbar spine,  
8 0 percent whole person impairment for the cervical and  
9 thoracic spines. This resulted in a 12 percent whole  
10 person impairment for the September 17, 2013 date of  
11 injury.

12 Present claim.

13 On December 4th, 2018, while working for the  
14 same employer, the employee was lifting a dock plate  
15 with his right hand when he felt a sharp pain in his  
16 back. He went to Concentra that same day where he was  
17 diagnosed with a lumbar strain and abdominal wall  
18 strain. He was prescribed medications and physical  
19 therapy. Physical therapy started on December 13, 2018  
20 and ended on January 7th, 2019.

21 The subsequent injury history will be taken  
22 from Dr. Cestkowski's PPD report penned on August 28th,  
23 2019.

24 The employee had an MRI on January 11th, 2019  
25 which revealed congenital narrowing of the lumbar spinal

1 canal with congenitally short pedicles, epidural  
2 lipomatosis and mild multilevel degenerative changes.  
3 Findings are worst at L5-S1, where they are suspected to  
4 result in severe bilateral neuroforaminal narrowing,  
5 mild spinal canal and abutment of the exiting left L5  
6 nerve root.

7           Based on the MRI findings, the employee was  
8 sent to Dr. Martinez-Moreno, a physiatrist, who  
9 recommended electrodiagnostic testing. On March 4th,  
10 2019, Dr. Martinez-Moreno performed trigger point  
11 injections. NCV testing was performed on March 25th,  
12 2019 and showed subacute ongoing bilateral L5 and S1  
13 radiculopathy. Based on the electrodiagnostic testing  
14 the employee was referred to Dr. Schifini, a pain  
15 management specialist.

16           On April 23rd, 2019, Dr. Schifini performed  
17 right and left L5-S1 transforaminal epidural steroid  
18 injections under fluoroscopic guidance. The employee  
19 received approximately 40 percent pain relief for about  
20 two days. Unfortunately, the employee also had insomnia  
21 and felt lightheaded for a week. Therefore, he declined  
22 a second injection.

23           After reconsideration, the employee under --  
24 the employee under a second right and left L5-S1  
25 transforaminal epidural steroid injection with

1 Dr. Schifini on July 16, 2019. He had about five days  
2 of pain relief and again experienced the same side  
3 effects.

4 On July 24th, 2019, the employee saw  
5 Dr. Martinez-Moreno and declined surgery.  
6 Dr. Martinez-Moreno determined he had reached maximum  
7 medical improvement and deemed him stable and ratable.

8 On August 27, 2019, Dr. Cestkowski performed a  
9 PPD rating evaluation. He felt the employee fell into  
10 DRE Category II for the lumbar spine. He awarded him  
11 8 percent whole person impairment. After subtracting  
12 the prior 6 percent whole person impairment, the  
13 employee was left with a net 2 percent whole person  
14 impairment. The employee took this in a lump sum.

15 Findings.

16 On September 10th, 2019, Dr. Betz provided a  
17 rationale for subsequent injury relief. He stated,  
18 quote:

19 As noted, lumbar MRI on April 26, 2014 as part  
20 of the prior claim showed diffuse prominent epidural  
21 fat narrowing the thecal sac but no focal disc  
22 herniations or foraminal stenosis.

23 Lumbar MRI following the subsequent injury  
24 showed very similar congenital/degenerative findings  
25 including congenital narrowing of the spinal canal

1 with epidural lipomatosis, fat, and mild multilevel  
2 degenerative changes most notable at L5-S1. There  
3 were no acute injury related abnormalities such as a  
4 disc herniation, but the other findings did result  
5 in suspected severe bilateral neural foraminal  
6 narrowing with abutment of the exiting left nerve  
7 root. Electrodiagnostics confirmed subacute  
8 radiculopathy related to these findings but the  
9 patient did not improve much with epidural steroid  
10 injections.

11 With these considerations in mind, absent the  
12 patient's known congenital and preexisting  
13 pathologies, he very likely would have suffered no  
14 more than a lumbar strain as a result of the  
15 subsequent injury requiring a brief course of care  
16 with full recovery and no additional permanent  
17 impairment.

18 However, as a direct result of the preexisting  
19 pathologies, the patient required extensive  
20 additional evaluation, multiple trigger point and  
21 epidural injections and ultimately had increased  
22 permanent partial impairment related to his lumbar  
23 pathologies and symptoms.

24 Consequently, it is reasonable and appropriate  
25 to conclude that 90 percent of the cost of the

1 subsequent claim was the result of the combined  
2 effects of the prior pathologies and the subsequent  
3 injury. 10 percent of the cost of the subsequent  
4 claim was the result of the subsequent injury alone.

5 The Administrator agrees with this analysis.

6 Therefore, NRS 616B.578, subsection 1, has been  
7 satisfied.

8 In October 2014 the employee was awarded  
9 6 percent whole person impairment for his lumbar spine  
10 under his September 17th, 2013 industrial claim.

11 Therefore, NRS 616B.578, subsection 3, has been  
12 satisfied.

13 The employer provided the following documents  
14 to show knowledge of permanent impairment:

15 C-3 Form dated September 18th, 2013 signed by  
16 Katy Grant, HR Division. This is for the  
17 September 17, 2013 claim and shows that the employee  
18 suffered multiple contusions, strain, concussion.  
19 Nowhere on this document does it state the employee  
20 has a permanent impairment related to his lumbar  
21 spine.

22 C-4 Form dated September 17, 2013. This  
23 document was faxed to 775-883-3360. This is the fax  
24 number for Associated Risk Management. Nowhere on  
25 the document does it indicate it was in the

1 possession of the employer.

2 October 23rd, 2014 letter from Associated Risk  
3 Management to the employee notifying him of a  
4 12 percent PPD for the right shoulder, lumbar,  
5 thoracic, cervical. Attached to the letter is a  
6 D-12a Form, Request for Hearing - Contested Claim;  
7 D-9a Form, Permanent Partial Disability Award  
8 Calculation Worksheet; D-13 Form, Injured Employee's  
9 Right to Reopen a Claim Which Has Been Closed;  
10 October 9th, 2014 Permanent Partial Disability  
11 Evaluation penned by Dr. Quaglieri. The letter and  
12 attachments were allegedly copied to Nevada Beverage  
13 Co. However, there is no indication on the document  
14 that it was received by the employer or in the  
15 possession of the employer.

16 In its November 6th, 2020 application letter  
17 Associated Risk Management states the following  
18 regarding NRS 616.578, subsection 4:

19 Employee was hired with the employer of injury  
20 in late July 2004. The claim filed on September 17,  
21 2013 was filed with the same employer. Employee was  
22 also previously awarded 6 percent whole person  
23 impairment for the lumbar spine and the employer was  
24 put on notice of this award. With this information,  
25 we believe this establishes employer knowledge and



1           that this requirement has been satisfied.

2           The employer must prove by written records that  
3 it had knowledge of the permanent physical impairment  
4 before the subsequent injury occurs. Holiday Retirement  
5 Corp. v. State of Nevada Division of Industrial  
6 Relations. This knowledge can occur at the time of hire  
7 or the employer can become aware of the permanent  
8 impairment after hire, before the subsequent injury, and  
9 continue to employ the employee notwithstanding the  
10 employer's knowledge of the preexisting permanent  
11 impairment. In either case, the prerequisite is still  
12 that the employer must prove knowledge of the permanent  
13 impairment by written records. The three documents  
14 submitted by the employer in this case do not prove that  
15 they had knowledge, prior to the subsequent injury, of a  
16 permanent impairment.

17           The C-3 Form, which is the only document which  
18 is signed by the employer's representative, shows that  
19 it was aware the employee suffered multiple contusions,  
20 strain, concussion. It cannot be inferred that a  
21 permanent impairment of 6 percent to the lumbar spine  
22 occurred. North Lake Tahoe Fire Protection District v.  
23 Board of Administration.

24           The C-4 Form and the October 23rd, 2014 letter  
25 do not appear to have been in the possession of the

1 employer, but rather were in the possession of  
2 Associated Risk Management. Holiday and section 9 of  
3 R026-18 adopted on February 27, 2018 require that the  
4 employer prove by written records that it had knowledge  
5 of the permanent impairment prior to the subsequent  
6 injury. That is not the case here.

7 Therefore, NRS 616B.578, subsection 4, has not  
8 been satisfied.

9 Subsection 5 does not need to be satisfied in  
10 order for this claim to be considered for reimbursement  
11 since the date of injury is after the October 1, 2007  
12 change in the requirements of the statute.

13 That's all.

14 BOARD CHAIR FOUNTAIN: Okay. Is there, does  
15 anybody have something to add to the notes on the call?

16 MR. STAUB: This is Richard Staub. I would  
17 like to respond, if I may.

18 BOARD CHAIR FOUNTAIN: Please go ahead,  
19 Mr. Staub.

20 MR. STAUB: Thank you.

21 Addressing specifically to the Administrator's  
22 finding under NRS 616B.578, subsection 3, employer  
23 knowledge of the preexisting permanent impairment, the  
24 first thing I'd like to point out is, you know, this is,  
25 this claim was filed by a member of an association of

1 private self-insured employers. There is no real  
2 insurance company involved in it other than the  
3 self-insured employer itself is insuring the claim.  
4 While an association does exist, we call them  
5 self-insured groups, there is a strong connection and  
6 continuing communication stream between the third-party  
7 claims administrator and the self-insured employer.

8           And so what happens in this process is various  
9 documents, virtually all the determination documents  
10 made by Associated Risk Management as a third-party  
11 claim administrator, is provided to the employer. And  
12 it is provided to the employer through either a cc  
13 notation on the document, on the document itself, or  
14 through some other means.

15           So when you say that the employer, under the  
16 first bullet point, may not have -- or, excuse me, on  
17 the second bullet point, may not have been in possession  
18 of the C-4, I can assure you that there's really only  
19 three ways that a C-3, which is the Employer Report of  
20 Injury, is going to occur. One is they're going, the  
21 employer itself is advised by the employee that they've  
22 been injured.

23           MR. ECCLES: Okay. Hold on a second. Can I  
24 say something here? This is Chris Eccles. May I get  
25 the Board counsel to make some kind of statement here

1 about what kind of proceeding we're having. Because  
2 under my understanding, in NAC 616B.7777, all we're  
3 doing here is that Ms. Skrinjaric is making the  
4 recommendation of the Administrator. And subsection 3  
5 of that regulation just says the Board will render a  
6 decision disposing of it.

7           So it sounds to me like we're getting into  
8 testimony or assuming facts not in evidence. So on that  
9 basis, I object. I think, the Board is just supposed to  
10 make a decision based on the recommendation, and that if  
11 the party who submitted the application feels that  
12 they're aggrieved, they can file a request for a full  
13 hearing.

14           We're getting into things that are not in  
15 evidence. None of this is, none of this is appropriate,  
16 in my view. If you want to establish a fact, call a  
17 witness. When do you call witnesses? You call  
18 witnesses when we have a hearing on the merits, a  
19 de novo hearing.

20           So I object to this whole line of whatever  
21 Mr. Staub is saying, sounds like testimony to me. And I  
22 look to the -- I would ask the Board counsel for some  
23 kind of framework here by which we can understand the  
24 rules that we're supposed to play by at this hearing.

25           Thank you.

1 MR. BORDELOVE: Mr. Staub, would you like to  
2 respond? This is Donald Bordelove, Board counsel.

3 MR. STAUB: Well, I think that I -- all due  
4 respect to the Board member's comments, I think, we have  
5 a right to at least make a brief response to what I  
6 believe to be an improper conclusion drawn by the  
7 Administrator in making the recommendation.

8 I was providing background regarding processes  
9 and procedures based upon the conclusion drawn by the  
10 Administrator in these three bullet points. And that's  
11 all I was going to address. I do believe we have a  
12 right to provide some comment, some clarification of  
13 some of the inferences and/or conclusions drawn by the  
14 Administrator.

15 MR. ECCLES: And if I could respond, I think,  
16 I'm not here to tell you what you are or not. I'm just  
17 giving you my impression. I leave it to Board counsel  
18 to advise the Board about that.

19 But my understanding is that an applicant is  
20 supposed to provide all the documents to the  
21 Administrator's designee, in other words, to  
22 Ms. Skrinjaric, that they believe are in support of  
23 their application.

24 And we're getting beyond that at this point  
25 with, I think, your statement, because it's talking

1 about the lines of communication supposedly between  
2 different parties on your side and, you know, who may or  
3 may not be involved. And it seems like you're going to  
4 need a witnesses under oath to testify to those things,  
5 and that that's for a separate hearing if you want to  
6 appeal this.

7           So to the extent that the information that  
8 you're trying to say is something that wasn't provided  
9 to Ms. Skrinjaric, we don't have any basis to understand  
10 that sort of thing or to respond to it really, because  
11 it was your responsibility to provide everything to  
12 Ms. Skrinjaric so she could make her decision, or her  
13 recommendation to the Board. If it gets beyond that, it  
14 seems to me we should be at a de novo contested hearing.

15           And that's all I have to say. Thank you.

16           MR. BORDELOVE: Rebecca, this is Donald  
17 Bordelove, Board counsel. It's in the Board's  
18 discretion whether they want to listen to Mr. Staub's  
19 statements. Mr. Eccles then had some points about the  
20 proper presentation of evidence and ability to press the  
21 full hearing. But as I understand it, the Board  
22 generally does allow the applicant to make a statement.  
23 So it's really in your discretion whether you want to  
24 continue listening to that statement or not. That's  
25 your call.

1 BOARD CHAIR FOUNTAIN: Thank you,  
2 Mr. Bordelove.

3 And I will reach out to Joyce and to Allen as  
4 to what their thoughts are. Do we want to continue  
5 listening in this dialogue, or do we want to make a  
6 motion?

7 BOARD MEMBER SMITH: I would like to continue  
8 listening. I'd rather not get bogged down in legalese.  
9 That's never the intent of this Board. Because we're  
10 not lawyers. We're laymen. So, yes, I'd like to hear  
11 so we can dispose of it.

12 BOARD MEMBER WALKER: My first response is I  
13 wanted to hear what Donald had to say, which does kick  
14 in. I think, I would like to hear. I'm with Joyce on  
15 this. I was going to ask if we could hear Donald's  
16 opinion on it. So let's continue.

17 BOARD CHAIR FOUNTAIN: All right. Mr. Staub,  
18 go ahead and continue, and try to keep it as brief as  
19 you can. And then we'd like to hear Mr. Bordelove's  
20 response.

21 MR. STAUB: Thank you, Madam Chair. And I will  
22 be brief.

23 So just addressing the first two bullet points,  
24 there are processes and procedures required by the  
25 statutes, NRS 616B.040 and NRS 616B.045, which require

1 communication and exchange of documents regarding the  
2 C-3, the Employer Report of Injury, and the C-4, the  
3 Employee's Report of Injury. For example, a physician  
4 that treats the injured employee must send this document  
5 either to the employer or that the employer, the  
6 self-insured employer to the third-party claims  
7 administrator. That occurred here. And there isn't any  
8 evidence to show that it didn't. And there isn't any  
9 regulation or statute that says we have to send these  
10 things by certified mail and return receipt to, in order  
11 to obtain proof that the employer potentially received  
12 the documents or not.

13           But most importantly, the bullet point  
14 number 3, which addresses the October 23rd, 2014 PPD and  
15 the prior injury, the Administrator is drawing a  
16 conclusion that because this document was cc'd to the  
17 employer, there's no evidence in our submission, then it  
18 wasn't received by the employer. And I don't see  
19 anything, again, in statute or regulation with the  
20 Administrator that says that we have to send this out by  
21 certified mail or we have to provide some type of  
22 document.

23           I would call the Board's attention to NRS  
24 47.250, which is the presumption statutes in Nevada.  
25 And one of the presumptions is that a letter duly



1 directed and mailed was received in the regular course  
2 of the mail. So that which was sent or cc'd to the  
3 employer is presumed by Nevada law to have been received  
4 by the employer. Yet the Administrator, without any  
5 substantiation, draws a conclusion that there was no  
6 proof that the employer received it. Well, there's a  
7 Nevada presumption that says that it is presumed that it  
8 is received if it's sent.

9           And that's what we do in these self-insured  
10 programs. And we do this because the employers have a  
11 right to object to the determinations of the  
12 administrator, of the third-party administrator. When  
13 you go to administrative hearing, there are three people  
14 that can object: the injured worker, the insurer, and  
15 that meaning the self-insured group or association, and  
16 the employer. We have to provide notice of these  
17 determinations to the employer, because they have a  
18 right to object in an administrative proceeding.

19           And so we, we can assure the Board that if the  
20 employer was cc'd with this document, which clearly  
21 shows the previous permanent impairment, it's deemed  
22 received under Nevada law. And what we've been able to  
23 determine is it was received. And we think it's  
24 improper for the Administrator to make this type of  
25 conclusion that we have not provided proof that it was

1 received, when the document clearly shows it was sent to  
2 the employer and it was properly addressed to the  
3 employer.

4           So we object at the conclusion that was drawn  
5 that we have not, or that the employer did not have  
6 prior knowledge of the preexisting permanent impairment,  
7 because we provided them with a copy of that  
8 October 23rd, 2014 letter. They were cc'd on that  
9 permanent partial disability, offered and warned, and  
10 there is no evidence to show that the presumption has  
11 been overcome.

12           Thank you.

13           BOARD CHAIR FOUNTAIN: Thank you, Mr. Staub.  
14           Mr. Bordelove, do you have a comment?

15           MR. BORDELOVE: Not at this time. I don't know  
16 if you want to let Mr. Eccles have a rebuttal or if you  
17 want me to make the comment now, concluded in your  
18 discussion.

19           BOARD CHAIR FOUNTAIN: Mr. Eccles, did you have  
20 a comment or rebuttal?

21           MR. ECCLES: Yes. Thank you.

22           I think that certain legal arguments have been  
23 made that can only be proven to be correct or incorrect  
24 through having testimony. And this isn't the time and  
25 place for testimony. So there, you know, I don't think

1 that his legal arguments that he said that this was duly  
2 directed, duly mailed, is supported by the evidence at  
3 this point.

4           If I want to send a document to, let's say,  
5 MGM, and I put at the bottom of my letter, you know, cc  
6 MGM, I don't think that's duly directed. I think, I  
7 would have to put a name down there. I think, I would  
8 have to put an address and other information like that.  
9 And that would satisfy what this Board has done in the  
10 past for determining that a letter was duly mailed and  
11 duly directed.

12           The October 23rd, 2014 letter, I don't know  
13 that it was duly directed. It doesn't have a specific  
14 person or a specific address. So I don't think that it  
15 complies with NRS 47.

16           And, at the proper time, if they want to appeal  
17 this, I'm pretty sure I could find a case and get some  
18 testimony to say that that's not directed. Plus, it's  
19 the Board's precedent. It is my understanding that  
20 we've had a case like this in the past and that the  
21 Board examined this issue and determined that cc MGM, or  
22 whoever it is, without a name, without an address,  
23 without a suite number, that doesn't cut it under NRS  
24 47.

25           So I disagree with his legal argument. And, I

1 think, the burden's on him to prove it. And if you want  
2 to give him that chance, then he needs to file a request  
3 for an appeal and get a witness, and we can have some  
4 legal arguments about it.

5 That's all.

6 BOARD CHAIR FOUNTAIN: Thank you, Mr. Eccles.

7 Mr. Bordelove.

8 MR. BORDELOVE: Well, Mr. Staub's and  
9 Mr. Eccles' points are both well-taken. Certainly there  
10 are a few legal issues here, but they're clearly based  
11 on some factual evidence. Generally, you have that  
12 evidence introduced and properly admitted and the  
13 foundation laid. Not to suggest Mr. Staub didn't say  
14 anything accurate. But generally those documents need  
15 to be presented and/or the witnesses or other evidence.

16 So you have different decisions right here.  
17 And you can go ahead and accept the Administrator's  
18 recommendation. And then Mr. Staub and the applicant,  
19 they have the ability to appeal it and do a full  
20 hearing, and they can introduce whatever they want. Or  
21 you are certainly are allowed to reject the  
22 Administrator's recommendation as well and approve the  
23 request. It's entirely in your discretion at this  
24 point.

25 BOARD CHAIR FOUNTAIN: Do any of the Board

1 members have comments they'd like to make?

2 BOARD MEMBER SMITH: Yes, I do. In the early  
3 days of this Board, we used to get a packet that was  
4 about three inches thick, and it had every single  
5 document. We would have seen this document had that  
6 still been the process. The only person that knows,  
7 Vanessa would have seen the document and the cc on it.  
8 That was probably good enough.

9 Everything shouldn't have to go another legal  
10 hearing. I'd like it to be a little more streamlined.  
11 That's what we were shooting to do a long time ago.  
12 Like for years, we were working on that process.

13 It seems reasonable that the employer knew,  
14 that employer. I get these documents back.

15 That's all I have to say.

16 BOARD CHAIR FOUNTAIN: Thank you, Joyce.  
17 Allen.

18 BOARD MEMBER WALKER: Oh, this is -- and I see  
19 both points here. And I kind of agree with Joyce a  
20 little bit. I think that there's -- that this going to  
21 a hearing, there could be a lot of things that come  
22 around. And I don't know if we can continue this and  
23 allow them to maybe show us those cc'd documents. What  
24 is our -- what can we do with this?

25 MR. BORDELOVE: So this is Donald.

1 BOARD MEMBER WALKER: Yes.

2 MR. BORDELOVE: The regulations were amended to  
3 mirror the other board a year or two, maybe even three  
4 years ago. And essentially the process now, which, I  
5 believe, we've done a few times now, but just to  
6 reiterate, the process is like the other board now where  
7 the Administrator presents you their, her  
8 recommendation. And then you get to, you know, up vote  
9 it or down vote it. And then, after that, then they,  
10 the applicant can appeal it and advance it through a  
11 full hearing.

12 I understand that's not how the process used to  
13 be. And it kind of came to you as a full hearing first  
14 time around. But that was subsequently changed,  
15 regulation, which has the force of law. And so now, as  
16 the process is, is the Administrator brings you her  
17 recommendation. You can accept the recommendation. In  
18 this case, it would be to deny the claim. Or you  
19 cannot. But after that, assuming that you did deny the  
20 request, which would be accepting the recommendation in  
21 this case, then the applicant can go ahead and bring you  
22 those documents.

23 But just continuing it, due to proper  
24 procedure, because that would be accepting evidence and  
25 almost basically doing a hearing instead of an internal

1 matter. And so the proper way to do it, if you'd like  
2 to hear more evidence and you'd like documents to be  
3 admitted, you'd like to have the witnesses, would be to  
4 accept the Administrator's recommendation. And then  
5 Mr. Staub can appeal it, and it'll go to a full hearing,  
6 and he can bring everything he wants before you.

7 But it is your call on how you want to proceed.

8 BOARD MEMBER WALKER: Okay.

9 BOARD CHAIR FOUNTAIN: Okay. Thank you.  
10 Go ahead, Allen.

11 BOARD MEMBER WALKER: Well, I'm the proper way.  
12 So I would like to make a recommendation, a motion to  
13 not agree with the Administrator and approve this.

14 BOARD CHAIR FOUNTAIN: Even though there's  
15 missing documents?

16 BOARD MEMBER WALKER: Yeah, because I kind of  
17 agree with Joyce, that from what I've seen, when I have  
18 a claim out there -- it's been a while, thank goodness,  
19 since I've had any kind of claim -- I am kept very  
20 informed of what's going on. And I do get cc'd on  
21 those. Now, whether that -- so I feel that the employer  
22 did have the notification and the proper paperwork. It  
23 just hasn't then created that agenda. And, I think,  
24 we're just kicking the can down the road to come back at  
25 us later. That's my opinion.

1 BOARD CHAIR FOUNTAIN: So --

2 BOARD MEMBER SMITH: I --

3 BOARD MEMBER FOUNTAIN: Go ahead, Joyce.

4 BOARD MEMBER SMITH: I agree with Allen.

5 Vanessa is the only one that's got all those documents  
6 in her hand. And, evidently, Chris has seen them, too,  
7 and the cc on them. Is that factual?

8 MS. SKRINJARIC: Are you -- this is Vanessa.  
9 Are you asking me that the documents that I attached to  
10 the recommendation, that I looked at those documents and  
11 these are the documents that were provided to me, is  
12 that the question I'm hearing?

13 BOARD MEMBER SMITH: That would be the  
14 question, Vanessa.

15 MS. SKRINJARIC: Okay. So the employer, or I'm  
16 sorry, the applicant submitted, all of the documents I  
17 listed as employer knowledge are all of the documents  
18 that the applicant submitted as employer knowledge.  
19 Okay. So what I attached is what I saw.

20 The argument that they are making is an  
21 argument that just because it has a cc on it is that  
22 they believe that the employer received it. Okay.

23 BOARD MEMBER SMITH: Correct. Okay.

24 MS. SKRINJARIC: So we're not telling -- and  
25 I'm not going to speak out of turn. But from what I



1 looked at, these documents did not come from the  
2 employer. These documents came from Associated Risk  
3 Management. That is my interpretation of the documents.

4 BOARD MEMBER SMITH: Okay. Thank you.

5 BOARD CHAIR FOUNTAIN: Anything else, Joyce?

6 BOARD MEMBER SMITH: No.

7 BOARD CHAIR FOUNTAIN: So, as an employer like  
8 the both of you, I'm always cc'd by Risk Management, and  
9 I'm also copied and mailed and I receive hard copies of  
10 everything that was cc'd to me in an email.

11 And so the fact that it said cc'd, we, the  
12 three of us understand, you know, that process, and  
13 which is causing us to side to deny the recommendation.  
14 Because I feel similar to the two of you. But my only  
15 concern is, the documents weren't provided. So we all  
16 keep files, and we all have to make sure we maintain  
17 those. And the employer could have gone back in the  
18 emails and printed those letters to provide us, you  
19 know, to prove that they had it. And that, from what I  
20 can see at this point, that wasn't provided to us or  
21 provided to the case.

22 So I'm a little torn on what direction to take.  
23 Part of me wants to deny it and say let's move on and  
24 stuff and not kick the can down the road. Because we  
25 all know our own experience and we can relate. But the

1 other part of this is that the documents weren't  
2 provided. But do we need to, to comply with law, do we  
3 need to have them provide the documents, and then go one  
4 more around with those documents being provided.  
5 Because they, I would imagine they would be able to  
6 provide that.

7 So I don't know. Mr. Bordelove, I'm not quite  
8 sure how to move forward with this.

9 MR. BORDELOVE: It's up to you. If you feel,  
10 based on your experience, that you think they had  
11 knowledge, then you're allowed to reject the  
12 recommendation and approve the claim. But if you'd like  
13 to see some more evidence on it, then it would probably  
14 be a good idea to deny the claim and let it go to a full  
15 hearing. It's really your call.

16 BOARD CHAIR FOUNTAIN: Okay. Well, then, I'm  
17 going to move forward here to the Board and ask for a  
18 motion to deny the Administrator's recommendation.

19 BOARD MEMBER WALKER: I motion to deny the  
20 Administrator's.

21 BOARD MEMBER SMITH: And I will second that.

22 BOARD CHAIR FOUNTAIN: And all in favor?

23 (Board members said "aye.")

24 BOARD CHAIR FOUNTAIN: The motion passed.

25 MS. SKRINJARIC: Can we make that just a

1 little --

2 MR. BORDELOVE: Sorry. Go ahead, Vanessa.

3 MS. SKRINJARIC: This is Vanessa. Can you make  
4 that a little clearer? Because the Administrator made a  
5 recommendation to deny the claim. So is the motion to  
6 reverse the Administrator?

7 BOARD CHAIR FOUNTAIN: Yes.

8 BOARD MEMBER WALKER: Yes.

9 BOARD CHAIR FOUNTAIN: The motion it to reverse  
10 the Administrator.

11 MS. SKRINJARIC: Okay. And to approve the  
12 claim?

13 BOARD CHAIR FOUNTAIN: And to approve the  
14 claim.

15 BOARD MEMBER WALKER: Yes.

16 MS. SKRINJARIC: Okay. Thank you very much.  
17 And that would be in the amount of \$26,380.57?

18 BOARD MEMBER WALKER: Yes.

19 BOARD CHAIR FOUNTAIN: That's correct.

20 MS. SKRINJARIC: Okay. And who is making that  
21 motion?

22 BOARD MEMBER WALKER: I did.

23 MS. SKRINJARIC: Allen.

24 BOARD MEMBER WALKER: Allen.

25 MS. SKRINJARIC: Okay. And then, I assume,

1 Joyce is the second?

2 BOARD MEMBER SMITH: Correct.

3 MS. SKRINJARIC: Okay. Thank you guys very  
4 much.

5 MR. BORDELOVE: Rebecca?

6 MS. SKRINJARIC: Hello?

7 MR. BORDELOVE: Do we still have Rebecca there?

8 BOARD MEMBER WALKER: Did we lose her?

9 BOARD CHAIR FOUNTAIN: No.

10 MR. BORDELOVE: We may have lost her, unless  
11 she's on mute. I guess, we'll have to wait a bit until  
12 she tries to reconnect. Maybe she got disconnected.

13 BOARD CHAIR FOUNTAIN: Hello?

14 MS. SKRINJARIC: Rebecca?

15 BOARD CHAIR FOUNTAIN: Hello. Can you hear me?

16 MS. SKRINJARIC: Is that you, Rebecca?

17 BOARD CHAIR FOUNTAIN: That's me if you can  
18 hear me.

19 MS. SKRINJARIC: Okay. There we go.

20 BOARD CHAIR FOUNTAIN: Okay.

21 BOARD MEMBER WALKER: Yeah, we're losing her.

22 BOARD MEMBER SMITH: Yeah, you're breaking up,  
23 you're coming in and out, Rebecca.

24 BOARD MEMBER WALKER: And the joy of mobile  
25 meetings.

1 MR. BORDELOVE: I guess, that's -- oh, there we  
2 go.

3 MS. SKRINJARIC: I think, she just logged off.  
4 And we'll wait for her to log back on.

5 (There was a pause.)

6 MS. SKRINJARIC: Hello?

7 BOARD CHAIR FOUNTAIN: Hi. Can you hear me  
8 now?

9 MS. SKRINJARIC: Yep, we can.

10 BOARD CHAIR FOUNTAIN: Okay. Sorry about that.  
11 I don't know what happened. Okay.

12 BOARD MEMBER WALKER: Oh, we lost her again.

13 BOARD CHAIR FOUNTAIN: Can you hear me now?

14 MS. SKRINJARIC: Hello?

15 BOARD CHAIR FOUNTAIN: Hello?

16 MS. SKRINJARIC: Are you ready, Rebecca?

17 BOARD CHAIR FOUNTAIN: Hello?

18 MS. SKRINJARIC: Yep. Go ahead.

19 BOARD CHAIR FOUNTAIN: You can hear me now?

20 MS. SKRINJARIC: Yes, we can.

21 BOARD CHAIR FOUNTAIN: Okay. We'll try this  
22 one more time.

23 MS. SKRINJARIC: Okay.

24 BOARD CHAIR FOUNTAIN: Okay. Items 5.a., or  
25 I'm sorry, 5.b., case number 5001-1211-2019-0855, Combs

1 Brothers, LLC, for possible action.

2 Vanessa.

3 MS. SKRINJARIC: Okay. So this is Nevada  
4 Transportation Network. Disclosures?

5 BOARD MEMBER WALKER: I am a member of Nevada  
6 Transportation, so I'll just recuse myself.

7 MS. SKRINJARIC: Okay. It is the  
8 Administrator's recommendation --

9 BOARD CHAIR FOUNTAIN: So --

10 MS. SKRINJARIC: Go ahead.

11 BOARD CHAIR FOUNTAIN: I'm sorry. Go ahead.

12 MS. SKRINJARIC: So, Allen, that will bring the  
13 quorum down to two.

14 So it is the Administrator's recommendation to  
15 deny this request pursuant to NRS 616B.578,  
16 subsection 4, for the lumbar spine. The cervical spine  
17 and left shoulder were not requested and are also  
18 denied.

19 The total amount requested for reimbursement is  
20 \$135,779.59. The amount of reimbursement, after costs  
21 were verified, is \$122,335.70. An explanation of the  
22 disallowance is attached to this recommendation memo.

23 This request was received from Associated Risk  
24 Management, Inc. on January 20th, 2021.

25 Prior history.

1           This employee was hired as a recycler on  
2 November 12th, 2013.

3           The prior history will be taken from  
4 Dr. Anderson's permanent partial disability report dated  
5 August 23rd, 2018 except as otherwise noted.

6           On June 17th, 2017, the employee's cart got  
7 stuck causing him to bang his left knee and twist his  
8 lower back as he fell. He was seen at Concentra the  
9 next day where he was diagnosed with a lumbar strain,  
10 right knee contusion and contact dermatitis. He  
11 underwent physical therapy and was released from care on  
12 July 19th, 2017.

13           On December 5th, 2017, the employee was picking  
14 up trash when he turned wrong and felt pain from his  
15 back to his ankle. He was seen at Concentra and  
16 diagnosed with a lumbar strain. He was given  
17 medications. Physical therapy was offered and refused.

18           An MRI performed on January 7th, 2018 revealed  
19 a large extruded disc fragment in the anterior right  
20 epidural and paracentral region along the course of the  
21 right posterior lateral L5 vertebral body margin. It  
22 appears to be arising from the L4-L5 disc and extends  
23 distal to the distal. There is annular disc bulging of  
24 the native L4-L5 disc with additional asymmetric right  
25 paracentral disc bulge/protrusion at the level of the

1 disc space. These changes are causing severe right  
2 lateral recess stenosis with what appears to be severe  
3 impingement on the descending right L5 and to a lesser  
4 degree the right S1 nerve root. Correlate for  
5 right-sided nerve root symptoms. There is an extruded  
6 disc fragment at L5 extending 8 millimeters craniocaudal  
7 and measures 5 millimeters by 5 millimeters AP and  
8 transverse. There is degenerative disc disease also  
9 noted at T12 to L1, L1 to L2, and L3 to L4. There's  
10 mild canal narrowing at L3 to L4 with moderate left and  
11 mild right neuroforaminal stenosis.

12 The employee saw Dr. Bassewitz on January 10th,  
13 2018 where surgery was recommended.

14 On February 12th, 2018, Dr. Bassewitz performed  
15 a right-sided L4-5 microlumbar discectomy.  
16 Postoperative physical therapy was performed from  
17 April 3rd, 2018 to July 18th, 2018.

18 On July 18th, 2018, Dr. Bassewitz determined  
19 the employee had reached maximum medical improvement and  
20 was stable and ratable. He was released to full duty.

21 On August 23rd, 2018, Dr. Anderson determined  
22 the employee had a 10 percent whole person impairment.  
23 He apportioned 50 percent, 5 percent whole person  
24 impairment, to the industrial accident of June 17th,  
25 2017, leaving a net impairments of 5 percent whole



1 person impairment for the December 5th, 2017 industrial  
2 accident.

3 Present claim.

4 On March 31st, 2019, while working for the same  
5 employer, the employee's foot got stuck and he fell  
6 backwards injuring his low back, cervical spine and left  
7 shoulder. He went to Concentra on April 9th, 2019 where  
8 he was diagnosed with a lumbosacral strain, cervical  
9 strain and lumbar radiculopathy. He was placed on  
10 modified duty.

11 The subsequent injury history will be taken  
12 from Dr. Glick's PPD report dated August 21st, 2020  
13 except as otherwise noted.

14 The employee had an MRI on May 3rd, 2019 which  
15 revealed moderate multilevel degenerative changes of the  
16 lumbar spine with disc desiccation and disc bulge at  
17 multiple levels. A superimposed right paracentral disc  
18 protrusion at L4-5 effaces the right lateral recess and  
19 abuts/compresses the right L5 nerve root; multilevel  
20 neural foraminal stenosis, moderate bilaterally at L3-4  
21 and severe on the right and moderate on the left at  
22 L4-5; grade 1 retrolisthesis of L1 on L2; mild  
23 gallbladder distention with small amount of  
24 pericholecystic fluid, a finding that can be seen in  
25 settings of cholecystitis.

1           Based on the MRI findings, the employee was  
2 referred to orthopedist Dr. Bassewitz. On May 31st,  
3 2019, an MRI with and without contrast was performed.  
4 It revealed interval right laminectomy L4-5; enhancing  
5 granulation or scar tissue in the right spinal canal at  
6 L4-5; previous disc extrusion appears to have been  
7 removed; mild disc bulging and desiccation of the  
8 intervertebral disc at L3-4 with loss of disc height;  
9 loss of disc height with desiccation of the L1-2  
10 intervertebral disc; severe bilateral neural foraminal  
11 stenosis at L3-4 from disc bulging; severe right neural  
12 foraminal stenosis at L4-5 from residual disc bulging;  
13 mild edema of the endplates at L1-2 from degenerative  
14 disc disease.

15           Dr. Bassewitz referred the employee to Dr. Kim  
16 for pain medication management.

17           On July 8th, 2019, Dr. Kim prescribed the  
18 employee hydrocodone.

19           On August 5th, 2019, Dr. Hanson believed the  
20 employee had a possible left shoulder SLAP tear. Also  
21 on August 5th, 2019, Dr. Kim increased the employee's  
22 pain medications. An MRI of the left shoulder on  
23 August 16, 2019 revealed moderate supraspinatus and  
24 subscapularis tendinosis; no evidence of rotator cuff  
25 tear; marked tendinosis, long head of biceps tendon

1 associated with mild bicipital tenosynovitis.

2           On August 20th, 2019, Dr. Bassewitz performed a  
3 revision right L4 hemilaminectomy, L4-5 medial  
4 facetectomy and L5 foraminotomy with nerve root  
5 decompression, L4-5 posterior spinal fusion, placement  
6 of Globus Creo ANP segmental pedicle screw L4 and L5 for  
7 use of morselized autograft; L4-5 complete total wide  
8 radical discectomy done for anterior decompression and  
9 restoration of disc height, L4-5 anterior lumbar  
10 interbody fusion. The surgery necessitated two surgeons  
11 and a physician's assistant. The employee was in the  
12 hospital for two days.

13           At his post-op visit in September 2019, the  
14 employee had increased pain. Dr. Kim increased his pain  
15 medications. The employee was taking Norco, Gabapentin,  
16 Ibuprofen and Flector patches.

17           On November 22nd, 2019, the employee was  
18 75 percent improved. Physical therapy was to begin  
19 after his shoulder surgery in December.

20           It appears that the employee underwent left  
21 shoulder surgery on December 11th, 2019.

22           On January 17th, 2020, the employee began  
23 complaining of neck pain. X-rays were obtained which  
24 showed disc degeneration from C3 to 7. It was not  
25 believed that the condition was surgical.

1           The employee underwent physical therapy from  
2 January 22nd, 2020 to June 22nd, 2020.

3           On May 5th, 2020, the employee underwent a  
4 functional capacity evaluation. It was determined that  
5 the employee's abilities did not meet the job demand.

6           On June 26th, 2020, Dr. Bassewitz's office felt  
7 the employee had reached maximum medical improvement.  
8 However, his care was transferred to Dr. Kim to wean him  
9 off narcotics.

10           On July 13th, 2020, Dr. Kim agreed to give him  
11 two more months of narcotics. At that time, the  
12 employee would need to transfer to his private  
13 insurance.

14           On August 13, 2020, Dr. Glick performed a PPD  
15 rating evaluation. He felt the employee had the  
16 following impairments: lumbar, 36 percent less the  
17 prior 10 percent equals 26 percent; left shoulder,  
18 8 percent; cervical, 6 percent; for a total of  
19 36 percent.

20           The PPD rating was reviewed by Dr. Pirruccello  
21 on August 31st, 2020. He felt Dr. Glick made a  
22 calculation error and determined the following  
23 impairments: lumbar, 28 percent less the prior  
24 10 percent equals 18 percent; left shoulder, 8 percent;  
25 cervical 6 percent; for a total of 30 percent.

1 Dr. Glick was asked to review Dr. Pirruccello's  
2 calculations. On September 2nd, 2020, Dr. Glick agreed  
3 with the calculations.

4 The 30 percent whole person impairment was  
5 offered to the employee and accepted in a lump sum. The  
6 applicant only requested reimbursement for 18 percent  
7 whole person impairment for the lumbar spine.

8 The employer was never able to accommodate the  
9 employee's light duty restrictions. Therefore,  
10 temporary total disability was paid from April 9th, 2020  
11 to May 22nd, 2020. After the FCE, the employee was  
12 placed into vocational rehabilitation. This was paid  
13 from May 23rd, 2020 to November 6th, 2020. The employee  
14 chose to take a vocational rehabilitation lump sum  
15 buyout when his mother became ill in Germany. The  
16 employee was entitled to 24 months of vocational  
17 rehabilitation. His buyout was \$14,046.05.

18 The vocational rehabilitation counselor was  
19 paid for his services of August 18th, 2020 to September  
20 10th, 2020.

21 Findings.

22 On September 14th, 2020, Dr. Betz penned a  
23 rationale for subsequent injury relief. He stated:

24 Employee continued to have problems following  
25 prior surgical decompression at L4-5 in 2018 with

1 need for ongoing pain management. Following the  
2 subsequent occupational incident, initial MRI scan  
3 did not show significant acute pathologies and  
4 repeat MRI with contrast on May 31st, 2019 showed  
5 evidence of prior surgery with scar tissue and  
6 residual disc bulge at L4-5 causing severe right  
7 neural foraminal narrowing.

8 Absent those preexisting pathologies, it is  
9 very likely the patient would have suffered no more  
10 than a low back contusion/strain as a result of the  
11 subsequent occupational incident requiring a brief  
12 course of conservative management with no new  
13 impairment.

14 However, as a direct result of the postsurgical  
15 and residual pathologies outlined above, employee  
16 required extensive repeat surgical decompression  
17 followed by fusion at L4-5. As a consequence of the  
18 fusion he will also be subject to significant  
19 increase impairment once rated for the subsequent  
20 injury.

21 Consequently, it is reasonable and appropriate  
22 to conclude that 95 percent of the cost of the  
23 subsequent claim resulted of the combined effects of  
24 prior pathologies and the subsequent injury.  
25 5 percent of the cost of the subsequent claim was

1 the result of the subsequent injury alone.

2 The Administrator agrees with this analysis.

3 Therefore, NRS 616B.578, subsection 1, has been  
4 satisfied.

5 On August 23rd, 2018, Dr. Anderson determined  
6 the employee had a 10 percent whole person impairment  
7 for his lumbar spine under his December 5th, 2017  
8 industrial claim. 5 percent whole person impairment was  
9 apportioned, leaving the employee with a net 5 percent  
10 whole person impairment under the 2017 claim.

11 Therefore, NRS 616B.578, subsection 3, has been  
12 satisfied.

13 The employer provided the following documents  
14 to show written knowledge of permanent impairment:

15 One, C-3 Form with a received stamp from  
16 Associated Risk Management, Inc. dated June 22nd,  
17 2017. This is for the June 17, 2017 injury and  
18 shows that the employee suffered bruise left knee,  
19 strain lower back. Nowhere on this document does it  
20 state the employee has a permanent impairment  
21 related to his lumbar spine.

22 Two, C-4 Form dated June 18th, 2017, with a  
23 received stamp from Associated Risk Management, Inc.  
24 This is for the June 17, 2017 injury and shows that  
25 the employee suffered a contusion left knee, lumbar

1 strain, sprain left knee. Nowhere on the document  
2 does it indicate it was in the possession of the  
3 employer. It also does not state that the employee  
4 has a permanent impairment related to his lumbar  
5 spine.

6 Three, C-1 Form dated December 5th, 2017. This  
7 is signed by the employee's supervisor, Rose  
8 Alcoces. It states the employee, quote, twisted  
9 back. Body parts involved are lower right back pain  
10 down into leg. Shooting pain down right leg into my  
11 ankle. It does not state the employee has a  
12 permanent impairment related to the lumbar spine.

13 Four, C-3 Form dated December 11, 2017,  
14 signature by employer is illegible. This is for the  
15 December 5th, 2017 injury. It states the employee  
16 suffered a lower back strain. Nowhere on the  
17 document does it state the employee suffered a  
18 permanent impairment related to the lumbar spine.

19 Five, C-4 Form dated December 5th, 2017. This  
20 is for the December 5th, 2017 injury and shows the  
21 employee suffered a lumbar strain. It also notes  
22 the employee had a previous injury or disease in  
23 2016/July 2017. However, it does not say what that  
24 was or if it was a permanent impairment.

25 Six, Physician Work Activity Status Report



1           dated December 5th, 2017 with a diagnosis of strain  
2           of muscle, fascia and tendon of low back. Nowhere  
3           on this document does it state the employee suffered  
4           a permanent impairment.

5           Seven, Physician Work Activity Status Report  
6           dated December 7th, 2017 with a diagnosis of strain  
7           of muscle, fascia and tendon of low back. Nowhere  
8           on this document does it state the employee suffered  
9           a permanent impairment.

10           Eight, email from Angel Mendez at Combs  
11           Brothers to Trista Beuerlein at Associated Risk  
12           Management dated December 12th, 2017. It states,  
13           "Does he have any preexisting conditions or prior  
14           injuries?" "Yes, many." "Was he drug tested?"  
15           "No, he has a medical condition that make it  
16           difficult to urinate." The employer does not state  
17           he was aware of any permanent impairment to the  
18           lumbar spine.

19           Nine, email from Larae Polson to Vanessa  
20           Skrinjaric regarding additional application  
21           documents.

22           10, September 13, 2018 letter from Associated  
23           Risk Management to the employee notifying him of a  
24           5 percent PPD for the lumbar spine. The letter was  
25           allegedly copied to Combs Brothers LLC. However,

1 there is no indication on the document that it was  
2 received by the employer or in the possession of the  
3 employer.

4 11, email from Angel Mendez at Combs Brothers  
5 to Melody Masangcay at Associated Risk Management  
6 dated April 16, 2019. This is after the subsequent  
7 injury and cannot be considered.

8 12, C-3 Form dated April 16, 2019, signature by  
9 employer is illegible. Strain of lower back is  
10 listed. This is after the subsequent injury and  
11 cannot be considered.

12 13, Employer's Wage Verification Form dated  
13 April 16, 2019, signed by Angel Mendez. This is  
14 after the subsequent injury and cannot be  
15 considered.

16 14, C-4 Form dated April 9th, 2019, with a  
17 diagnosis of lumbar strain, cervical strain, lumbar  
18 radiculopathy. This is after the subsequent and  
19 cannot be considered.

20 15, Physician Work Activity Status Report dated  
21 April 9th, 2019 with a diagnosis of radiculopathy,  
22 lumbar region, strain of muscle, fascia and tendon  
23 of low back. This is after the subsequent injury  
24 and cannot be considered.

25 16, Physician Work Activity Status Report dated

1 April 13, 2019 with a diagnosis of strain of muscle,  
2 fascia and tendon of low back; strain of muscle,  
3 fascia and tendon at new level. This is after the  
4 subsequent injury and cannot be considered.

5 In its November 6, 2020 application letter  
6 Associated Risk Management states the following  
7 regarding NRS 616B.578, subsection 4:

8 Employee suffered not one, but two prior  
9 injuries to his lumbar spine while working for Combs  
10 Brothers LLC, June 17, 2017 and December 5th, 2017.  
11 Employee was previously rated at 10 percent whole  
12 person impairment for his lumbar spine in August  
13 2018. Prior to the PPD evaluation, employee  
14 returned to full duty work with Combs Brothers on  
15 June 1st, 2018. Based on this, we believe this  
16 requirement, NRS 616B.578, subsection 4, has been  
17 satisfied.

18 The employer must prove by written records that  
19 it had knowledge of the permanent physical impairment  
20 before the subsequent injury occurring. Holiday  
21 Retirement Corp. v. State of Nevada Division of  
22 Industrial Relations. This knowledge can occur at the  
23 time of hire or the employer can become aware of the  
24 permanent impairment after hire, before the subsequent  
25 injury, and continue to employ the employee

1 notwithstanding the employer's knowledge of the  
2 preexisting permanent impairment. In either case, the  
3 prerequisite is still that the employer must prove  
4 knowledge of the permanent impairment by written  
5 records. This documents submitted by the employer in  
6 this case do not prove that they had knowledge, prior to  
7 the subsequent injury, of a permanent impairment.

8 Documents 11 through 16 occurred after the  
9 subsequent injury and therefore cannot be considered  
10 pursuant to Section 9 of R026-18 adopted on February 27,  
11 2020.

12 Documents 1 to 2 and 4 to 7 show that the  
13 employer was aware the employee suffered a lumbar strain  
14 or sprain. A lumbar sprain or strain does not equal a  
15 6 percent permanent impairment.

16 Document 3 shows the employer was aware the  
17 employee, quote, twisted back and had lower right leg  
18 pain down into leg. Document 8 shows the employer was  
19 aware of preexisting conditions or prior injuries, i.e.,  
20 he has a medical condition that makes it difficult to  
21 urinate. Nowhere does the employer mention a back  
22 condition. In fact, at the point in time of that email  
23 the employee did not have a permanent impairment of  
24 6 percent or more. It cannot be inferred that a  
25 permanent impairment of 6 percent to the lumbar spine

1 occurred at the time of these documents. North Lake  
2 Tahoe Fire Protection District v. Board of  
3 Administration.

4 Document 10 alleges to have been mailed to the  
5 employer. However, it does not appear to have been in  
6 the possession of the employer, but rather was in the  
7 possession of Associated Risk Management.

8 Therefore, NRS 616B.578, subsection 4, has not  
9 been satisfied.

10 Subsection 5 does not need to be satisfied in  
11 order for this claim to be considered for reimbursement  
12 since the date of injury is after the October 1, 2007  
13 change in the requirements of the statute.

14 That's all.

15 BOARD CHAIR FOUNTAIN: Okay. Joyce or Allen,  
16 do you, either of you have anything, any comments to  
17 make?

18 BOARD MEMBER WALKER: I can't comment. I had  
19 to abstain on this one.

20 BOARD CHAIR FOUNTAIN: Yes, that's right.  
21 Thank you, Allen.

22 And Joyce.

23 BOARD MEMBER SMITH: You know what, maybe I'd  
24 like an opinion from Mr. Bordelove. Because we -- we  
25 use Associated Risk Management. So I know how they

1 operate. Same thing as the last claim. If you're  
2 splitting hairs because it came from somebody, the  
3 employer employees to handle this paperwork in this  
4 claim for subsequent injury, I would say the same thing  
5 applies in this one as to the last claim. But I'm  
6 asking Mr. Bordelove, because I had inside information,  
7 because I use these people, so I know this. I don't  
8 know, if it had been somebody, not Associated Risk  
9 Management, but somebody else bringing it, I don't know  
10 how they operate. But I know how this company operates.  
11 Is there a problem with that?

12 BOARD CHAIR FOUNTAIN: Mr. Bordelove.

13 MR. BORDELOVE: I'm a bit confused on the  
14 question. Is it whether, is your question whether you  
15 need to recuse yourself, is that your question?

16 BOARD MEMBER SMITH: No, I don't need to recuse  
17 myself. I'm not on the board that's applying for this.  
18 But I know that the Associated Risk Management is to our  
19 company, also, employees handle claims. They oversee.

20 MR. BORDELOVE: Okay. On the substance,  
21 though? That's what I'm confused on. Are you asking on  
22 the substance on whether you should approve or reject  
23 the Administrator's recommendation, or is this a  
24 question on whether you -- a recusal question? That's  
25 what I'm confused on.

1 BOARD MEMBER SMITH: Okay. Is it a problem  
2 that I know how they operate, so that would -- it's like  
3 in the last claim. I know that the employer, because  
4 they carbon copy, that's how they handle things. You  
5 seem to be denying --

6 MR. BORDELOVE: I don't believe it's a problem.  
7 But let me read the standard for you. I'm just pulling  
8 it up. Let me read the standard for you, and then you  
9 can determine whether you think that's met or not:  
10 Because abstention by a public officer disrupts the  
11 normal course of representative government and deprives  
12 the public and the public officer's constituents of a  
13 voice in governmental affairs, the provisions of this  
14 section -- which specifically the section is 281A.420 --  
15 the provisions of this section are intended to require  
16 abstention only in clear cases where the independence of  
17 judgment of a reasonable person in the public officer's  
18 situation would be materially affected by the public  
19 officer's acceptance of a gift -- which wouldn't  
20 apply -- significant pecuniary interest or commitment in  
21 a private capacity to the interests of another person.

22 So it's whether you feel that's necessary for  
23 you to recuse. Based on what you've told me, it doesn't  
24 sound like it. But, you know, I would rather you make  
25 that determination since you're more aware of your

1 connections.

2 BOARD MEMBER WALKER: And I know I'm not  
3 involved in this case, but I just, I don't think it's a  
4 question of recusal on that. Because we all use, or  
5 most of us have Associated Risk Management. They work  
6 with most companies. I think, what Joyce is saying is  
7 because we're all familiar with the way Associated Risk  
8 Management works and the way the documentation comes  
9 out, we, as employers, we get that documentation. I  
10 think, that's what she's saying, is she understands the  
11 way that documentation comes out.

12 MR. BORDELOVE: Right, Allen. That's what I  
13 understand, too. So it doesn't look like abstention is  
14 required in this case. But it's Joyce's call  
15 ultimately.

16 BOARD MEMBER SMITH: Okay.

17 BOARD MEMBER WALKER: Go get it, Joyce.

18 MR. BORDELOVE: So -- I'm sorry. I was just  
19 asking Joyce, just to make it clear for the record. Do  
20 you think abstention is required?

21 BOARD MEMBER SMITH: Could you repeat that.

22 MR. BORDELOVE: Do you think abstention on your  
23 part is required based on the standard I read to you?

24 BOARD MEMBER SMITH: I do not.

25 MR. BORDELOVE: Okay. Great. So did that



1 answer your question, or do you have another question?

2 BOARD MEMBER SMITH: Nope. That was it. Thank  
3 you.

4 MR. BORDELOVE: No problem. My pleasure.

5 MR. ECCLES: Ms. Smith, may I? And members of  
6 the Board, this is Chris Maybe -- is Mr. Staub on this  
7 one as well? Maybe we can entertain a little bit of  
8 argument just to try and make our points again, so that  
9 maybe that would facilitate you making a decision in  
10 this matter? Just a suggestion.

11 BOARD CHAIR FOUNTAIN: Mr. Staub, are you on  
12 the line still?

13 MR. STAUB: Yes, I am, Madam Chair.

14 BOARD CHAIR FOUNTAIN: Do you have any comments  
15 you would like to make?

16 MR. STAUB: We do object to the recommendation  
17 of the Administrator to the deny or for denial of our  
18 application. I would address subsection C regarding  
19 NRSs 616B.578, subsection 4, and I would make the same  
20 comments regarding the objections the Administrator  
21 points out in this section as we did in the Nevada  
22 Beverage application.

23 The sum and substance of the recommendation  
24 that we did not meet this section of statute is based  
25 upon item number 10, which is a September 13, 2018

1 letter to Associated Risk Management which talked to the  
2 employer in this case, just as it was in the last case.  
3 And the Combs Brothers was cc'd and regarding this prior  
4 permanent partial disability award.

5           And so we believe they did have prior written  
6 knowledge of the previous physical impairment. And we  
7 believe that the presumption provided by NRS 47.250 is  
8 that an item that is mailed is presumed to be delivered.  
9 And the conclusions of the Administrator that it was not  
10 are improper. Therefore, we request the Board to  
11 overrule the recommendation to deny and approve our  
12 application.

13           Thank you.

14           BOARD CHAIR FOUNTAIN: Mr. Eccles.

15           MR. ECCLES: Yes, thank you.

16           Again, let me try and frame this. I appreciate  
17 Mr. Staub. I'm glad he went first. It's his burden.  
18 And I appreciate the opportunity to maybe clarify my  
19 points in this case.

20           So I think that in the last matter, Ms. Smith  
21 and Mr. Walker had, you know, talked about not wanting  
22 to kick the can down the road essentially. If you agree  
23 with the Administrator's recommendation in this case, I  
24 don't really see it as kicking the can down the road. I  
25 see it as there isn't sufficient evidence to disagree

1 with the Administrator's recommendation at this point  
2 and that the burden is on the applicant to produce the  
3 evidence at a next hearing. I don't see that as kicking  
4 the can down the road. I see it as that's what you have  
5 to comply with under the law here.

6 Sometimes I wonder why I'm making arguments  
7 that are splitting legal hairs. And maybe, you know, I  
8 don't like legalese sometimes. But that's what I do for  
9 a living. And from my point of view here, they didn't  
10 meet the standard of duly mailed and addressed. I'm  
11 looking online. I'm back in my office. I'm looking  
12 online at trial court orders, and there's all kinds of  
13 case law, go figure, on NRS 47.250, sub 13, whether or  
14 not documents were duly directed and mailed, whether or  
15 not a document that was duly directed and mailed was  
16 received in the regular course of the mail.

17 Here's the thing. Ms. Smith was asking about,  
18 well, we know how ARMI operates. Well, that's  
19 wonderful. You have experience. You know how ARMI  
20 operates with respect to your claims. You don't know  
21 how ARMI operates with respect to anybody else's claims.  
22 You're making a presumption that because you get  
23 everything, that everybody else must get everything,  
24 they must be complying with everything across the board,  
25 because you get what you need in order to review these

1 claims. That's not the standard of proof here.

2           The standard of proof is did they get it, was  
3 the letter duly mailed? And that answer is unknown  
4 because it wasn't duly mailed. That presumption is not  
5 applicable to this. Because cc MGM, or cc Coombs  
6 Brothers, or cc Don Bordelove, or whoever, that's not  
7 duly mailed. There's no address. There's case law on  
8 this stuff. If you mail it to the wrong address, that's  
9 not duly mailed. If you mail it to a former address,  
10 that's not duly addressed and mailed. If you mail it  
11 to, you know, the wrong person or the wrong department  
12 or the wrong suite number, that's not duly addressed and  
13 mailed.

14           So, you know, I think, you're applying the  
15 wrong, the wrong sort of references here. When you do a  
16 case and you sit as the finder of fact in a case, you're  
17 allowed to take, you know, inferences from your  
18 experience and apply those to the case. But here  
19 you're, what I think you're saying is that, well, I know  
20 the experience of ARMI, and they do it right for me, so  
21 they must be doing it right for everybody else. But  
22 that is not known. That's a question of fact.

23           And like I said, the presumption in NRS 47  
24 doesn't apply, because the letter isn't even addressed.  
25 It's not even a question of whether it's duly addressed

1 and mailed. It's not addressed at all if it just says  
2 to, you know, the SIA Board and it doesn't have your  
3 proper address or your suite number or whatever. That's  
4 not duly mailed and addressed. It doesn't meet the  
5 standard.

6           So, you know, it may be splitting legal hairs,  
7 in your opinion, still, and that's fine, but I just  
8 don't think that they're meeting the standard that's  
9 called for in your regulations, which require that the  
10 employer had the knowledge. So they're going to need a  
11 witness to testify that the employer actually received  
12 this and had knowledge of a 6 percent or more  
13 impairment. We don't have that at this point.

14           Now, I appreciate you listening to the  
15 arguments. One other thing I'd like to say, as a policy  
16 matter, basically, is that if cc, you know, MGM, or cc  
17 Coombs Brothers, or whatever, is good enough, you all  
18 are going to open the floodgates to this stuff, because  
19 everybody's going to come here and say, well, we cc'd.  
20 You know, every TPA is going to come in and say, well,  
21 we cc'd whoever. So now it's established as a matter of  
22 fact, as a matter of law, that they got it and that they  
23 had knowledge. And they're going to come at you for  
24 saying that, well, you didn't do it in my case, but you  
25 did it for ARMI, or you did it in other cases. So.

1           And the last thing is I don't think I have an  
2 ability. I'll have to check the regs. But if you guys  
3 disagree with the recommendation of the Administrator, I  
4 don't believe that I have the ability to appeal that to  
5 the District Court or to ask you guys for -- you know, I  
6 don't know that I have the ability to ask you guys for a  
7 full de novo hearing.

8           So once you open those gates, that floodwater's  
9 going through, and it's done, unless you go back on it  
10 at some other point for some other reason and decide  
11 that it wasn't appropriate to do that.

12           So those are my comments. I thank you for your  
13 time. And I appreciate your listening to me very much.

14           BOARD CHAIR FOUNTAIN: Thank you, Mr. Eccles.  
15 And definitely duly noted. It does bring up a concern  
16 on my end where we went through about three years ago --  
17 this is addressed to Joyce and Allen -- where we went  
18 through something similar, and the concern was setting a  
19 precedent.

20           And so we just approved the case before this.  
21 And now we're dealing with something very similar. And  
22 to Mr. Eccles' point, we do not have the proof needed  
23 per law to not, to change the approval or not approve  
24 this particular case and, quite frankly, even the one we  
25 just did. And so I don't want to set a precedence. And

1 to a degree, I believe that we just did in the former  
2 case.

3           So that being said -- and, Joyce, I don't  
4 remember if Allen was on the Board at the time -- I  
5 think, I'm going to ask if you recall that, Joyce. And  
6 then, too, we have to look at the law and the precedence  
7 that we're setting if we were to just agree to this  
8 because we all use Risk Management and we do know how  
9 they operate. Mr. Eccles is correct, they might not be  
10 the same in other parts of the country or state, I  
11 should say.

12           So on that note, Joyce, I'd like your thoughts  
13 on that.

14           BOARD MEMBER SMITH: The precedent --

15           BOARD CHAIR FOUNTAIN: You're on mute.

16           BOARD MEMBER SMITH: Am I?

17           MS. SKRINJARIC: No, you're fine, Joyce.

18           BOARD CHAIR FOUNTAIN: No, there you are.

19           BOARD MEMBER SMITH: The precedence, yes,  
20 actually is a concern. But more or less what my  
21 question was before, I know how Associated Risk  
22 Management. If this was a different company on this, I  
23 couldn't attest to what they did, and I would feel  
24 differently about it. So, yes, that was really my  
25 question to Mr. Bordelove before. You know, okay,

1 because I know that. And then Chris, I guess, answered  
2 that.

3 So perhaps this one, because you can't add to  
4 it or change it now that -- if we turn it down, then  
5 Mr. Staub can bring it back on appeal with more  
6 documentation.

7 BOARD CHAIR FOUNTAIN: So. Okay. So then,  
8 I'm -- I guess, then, at this point, does anyone else  
9 have any other comments to make?

10 BOARD MEMBER SMITH: Okay. Mr. Bordelove, what  
11 advice would you give us, have we got, without getting  
12 ourselves in trouble?

13 MR. BORDELOVE: Well, based on what you just  
14 said, it sounds like you'd like to have a hearing. So I  
15 would give you the advice to go ahead and accept the  
16 Administrator's recommendation.

17 BOARD CHAIR FOUNTAIN: Thank you,  
18 Mr. Bordelove.

19 Is there a motion on the table to accept the  
20 Administrator's recommendation?

21 BOARD MEMBER SMITH: I will make that motion,  
22 Rebecca.

23 BOARD CHAIR FOUNTAIN: Thank you, Joyce.

24 Is there a second? And that would probably be  
25 me for the second. And all in favor?



1 BOARD MEMBER SMITH: Aye.

2 BOARD CHAIR FOUNTAIN: Aye. The motion passed.

3 Vanessa, do you need anything else from us on  
4 that in this case?

5 MS. SKRINJARIC: No, not on that one.

6 BOARD CHAIR FOUNTAIN: Okay.

7 MS. SKRINJARIC: Move to the next one.

8 BOARD CHAIR FOUNTAIN: Moving on, item 6.

9 Action on a recommendation of the Administrator of the  
10 Division of Industrial Relations for approval of the  
11 following supplemental requests for reimbursement from  
12 the Subsequent Injury Account for Associations of  
13 Self-Insured Public or Private Employers.

14 Case 5001-0758-2017-0179, Mike Parker Trucking,  
15 for possible action.

16 MS. SKRINJARIC: Okay. And this is Nevada  
17 Transportation Network. So, Allen.

18 BOARD MEMBER WALKER: I will have to recuse  
19 myself again. And I'm going to go off the line, but  
20 I'll come back on. I need to handle something real  
21 quick while you guys hear this case.

22 MS. SKRINJARIC: Okay.

23 BOARD MEMBER WALKER: All right.

24 MS. SKRINJARIC: It is the Administrator's  
25 recommendation to accept this second supplemental

1 request pursuant to NRS 616B.578 for the right knee and  
2 right ankle.

3           The total amount requested for reimbursement is  
4 \$69,085.58. The amount of reimbursement, after costs  
5 were verified, is \$67,345.56. An explanation of the  
6 disallowance is attached to this recommendation memo.

7           This request was received from Associated Risk  
8 Management, Inc. on April 30th, 2021. This claim was  
9 originally approved by the Board on November 8th, 2018.

10           This request contained reporting, payment  
11 and/or billing for the following expenses:

12           Surgical boot on November 8th, 2018;  
13           IV medications on November 20, November 29,  
14           December 7th, December 14th and December 21st, 2018;  
15           Dr. Moore hospital visits on November 8, 9, 11, 12  
16           and 20, 2018;  
17           Dr. Zawahiri hospital visits on November 13 to 18,  
18           2018;  
19           Dr. Matz hospital visit on November 19, 2018;  
20           Anesthesiologist for November 9th, 2014 surgery;  
21           Anesthesiologist for November 14, 2018 surgery;  
22           November 8, 2018 CT of right lower extremity;  
23           November 8th, 2018 x-ray of right lower leg;  
24           November 8th, 2018 x-ray of right great toe;  
25           November 9, 2018 CT of right lower extremity;

1 November 14, 2018 x-ray of right ankle;  
2 Hospital stay for November 7, 2018 to November 20th,  
3 2018, daily rate only;  
4 November 7, 2018 emergency room visit;  
5 November 7, 2018 emergency room doctor and I&D  
6 procedure.

7 This gentleman was involved in a motor vehicle  
8 accident while working as a truck driver and suffered  
9 injury to his right knee and right ankle.

10 At the last submission this gentleman was paid  
11 temporary total disability through September 7, 2018.  
12 He was placed on vocational rehabilitation maintenance  
13 from September 8th, 2018 through December 26th, 2018.  
14 He accepted a vocational rehabilitation lump sum buyout  
15 in the amount of \$27,500.00 on December 27, 2018. He  
16 also took a permanent partial disability lump sum buyout  
17 on October 31st, 2018 for an 18 percent whole person  
18 impairment.

19 Seven days after accepting his PPD in a lump  
20 sum, the employee presented to Renown Regional Medical  
21 Center with worsening right lower leg pain, erythema and  
22 swelling which had been ongoing for three days. He was  
23 seen in the emergency room where an irrigation and  
24 debridement with packing was performed. Cultures were  
25 taken which eventually showed positive for MRSA. The

1 employee also had a plantar ulcer on the base of his  
2 right great toe which he has had on and off for years.  
3 This was not positive for MRSA. He was admitted to the  
4 hospital.

5 On November 9th, 2018, Dr. Althausen removed  
6 the hardware in the right proximal tibia and also  
7 performed an irrigation and debridement and  
8 sequestrectomy right proximal tibia.

9 On November 14th, 2018, Dr. Althausen removed  
10 the hardware in the right ankle.

11 The employee remained in the hospital from  
12 November 7, 2018 until November 20th, 2018.

13 On November 15, 2018, the employee's attorney  
14 requested reopening of his workers' compensation claim.  
15 This was during the time the employee was receiving  
16 vocational rehabilitation maintenance benefits.

17 On December 14, 2018, ARMI denied the request.  
18 The employee appealed. On January 30th, 2019, Hearing  
19 Officer Luis affirmed ARMI's determination to deny  
20 reopening. The employee appealed this Decision and  
21 Order to the Appeals Officer. On March 26, 2021,  
22 Appeals Officer Moore reversed ARMI's determination and  
23 ordered the employee's claim reopened effective  
24 November 7, 2018. Also included in Appeals Officer  
25 Moore's Decision and Order is the acceptance of the

1 employee's right great toe as an accepted body part.

2 Also noted is that the employee is not eligible  
3 for any TTD benefits until after December 26, 2018 as he  
4 was receiving vocational rehabilitation maintenance  
5 until that time.

6 That's all.

7 BOARD CHAIR FOUNTAIN: Thank you.

8 MS. SKRINJARIC: Hello?

9 BOARD MEMBER WALKER: Yeah, this is Allen. I'm  
10 sorry. I'm back.

11 MS. SKRINJARIC: Okay. I think, Rebecca, are  
12 you having trouble?

13 BOARD CHAIR FOUNTAIN: Are you there, Joyce?

14 BOARD MEMBER SMITH: Yes, I am.

15 MS. SKRINJARIC: Okay.

16 BOARD CHAIR FOUNTAIN: Okay. Were there any  
17 comments?

18 MS. SKRINJARIC: I don't think.

19 BOARD MEMBER SMITH: I do not have any.

20 MR. STAUB: Yes. This is Richard Staub. We  
21 agree with the recommendation.

22 BOARD CHAIR FOUNTAIN: Thank you, Mr. Staub.  
23 Mr. Bordelove, do you have any comments?

24 MR. BORDELOVE: No, ma'am.

25 BOARD CHAIR FOUNTAIN: And Mr. Eccles?

1 MR. ECCLES: No. Thank you.

2 BOARD CHAIR FOUNTAIN: Okay. Do I have a  
3 motion to approve?

4 BOARD MEMBER SMITH: I will motion to approve  
5 the supplemental --

6 BOARD CHAIR FOUNTAIN: And I will -- I'm sorry.  
7 Go ahead.

8 BOARD MEMBER SMITH: That's okay. It was just  
9 the amount.

10 BOARD CHAIR FOUNTAIN: And I will second that  
11 motion. Aye.

12 BOARD MEMBER SMITH: Aye.

13 BOARD CHAIR FOUNTAIN: The motion passed.  
14 5012-1271-2015-0195, Rafael Framers.

15 Vanessa.

16 MS. SKRINJARIC: Okay. This is Builders  
17 Association of Western Nevada. Is anyone involved in  
18 that?

19 BOARD MEMBER SMITH: I am and will need to  
20 recuse.

21 MS. SKRINJARIC: Oh, you are, Joyce. Okay.

22 BOARD CHAIR FOUNTAIN: And, I think, I'm okay.

23 MS. SKRINJARIC: Okay. And I'm sorry. This is  
24 a really long one.

25 It is the Administrator's recommendation to

1 accept this first supplemental request pursuant to NRS  
2 616B.578 for the lumbar spine only.

3 The total amount requested for reimbursement is  
4 \$303,826.87. The amount of reimbursement, after costs  
5 were verified, is \$264,259.31. An explanation of the  
6 disallowance is attached to this recommendation memo.

7 This request was received from Associated Risk  
8 Management, Inc. on April 23rd, 2021.

9 This request contained reporting, payment  
10 and/or billing for the following expenses:

11 Temporary total disability from November 11th, 2015  
12 to February 12th, 2018;

13 Permanent total ability from June 25th, 2018 to  
14 December 31st, 2020;

15 Interest on PTD benefits due, June 25th, 2018 to  
16 November 30th, 2020;

17 Prescriptions from September 2nd, 2015 to  
18 March 25th, 2021;

19 Travel from December 22nd, 2016 to June 2nd, 2020;

20 Hospital stay from November 11, 2015 to November 14,  
21 2015;

22 Hospitalist for hospital stay on November 11, 2015  
23 to November 14, 2015;

24 Two surgeons, assistant surgeon and anesthesiologist  
25 for lumbar surgery on November 11, 2015;

1 Physical therapy from April 7, 2016 to December 29,  
2 2017;  
3 Office visits with Dr. Elkanich from February 16,  
4 2016 to May 17, 2016;  
5 Office visits with Dr. Sanders on May 6, 2016 and  
6 June 6, 2016;  
7 FCE on July 19, 2016;  
8 Office visits with Dr. Workman from December 22nd,  
9 2016 to April 17, 2017 including drug screenings  
10 through April 24th, 2017;  
11 TENS unit prescribed by Dr. Workman on January 26,  
12 2017 for the shoulder and monthly supplies;  
13 ASC fee and anesthesia fee for caudal epidural  
14 steroid injection on February 1, 2017;  
15 ASC fee and anesthesia fee for lumbar epidural  
16 steroid injection on April 5th, 2017;  
17 Office visits with Dr. Perry from May 22nd, 2017  
18 through February 12th, 2018;  
19 ASC fee and anesthesia fee for lumbar epidural  
20 steroid injection on June 7, 2017;  
21 Hospital fee for cervical surgery on September 26,  
22 2017;  
23 Office visits with Dr. Oliver from June 7, 2017  
24 through December 17, 2018 including drug screenings;  
25 Consult with Dr. Schifini on June 21, 2017;



1 Lumbar spine surgery with Dr. Perry on September  
2 12th, 2017 including hospital, assistant,  
3 anesthesiologist and hospitalists;  
4 Office visit with Dr. Munoz-Broeckmann on  
5 January 29, 2018;  
6 ASC fee and anesthesia fee for spinal cord  
7 stimulator trial on September 5th, 2018;  
8 Office visits with Dr. Patel from February 7, 2019  
9 to February 18, 2021, including drug screenings;  
10 Anesthesia fee for medial branch blocks on  
11 April 2nd, 2019;  
12 Office visits with Dr. Mashhood on June 3rd and 17,  
13 2019;  
14 Office visits with Dr. Guevara from July 9th, 2019  
15 to November 21, 2019.

16 This claim was last submitted to the Board on  
17 May 26, 2016. It was noted at that time that lumbar  
18 spine surgery was performed on November 11th, 2015. It  
19 was also noted in the last submission that on  
20 February 9th, 2016, the claim was accepted for L4-5 and  
21 L5-S1 herniated disc, stenosis and lumbar radiculopathy.  
22 ARMI indicated once the patient had surgery on the  
23 shoulder they would update their determination  
24 concerning additional coverage for this body part.

25 After the lumbar spine surgery on November 11,

1 2015, the employee underwent post-op physical therapy.  
2 He underwent an FCE on July 19th, 2016 which was invalid  
3 and showed symptom magnification.

4 In December 2016, the employee began seeing  
5 Dr. Workman.

6 On February 1, 2017, Dr. Workman performed a  
7 caudal epidural steroid injection which provided no  
8 relief to the employee. On April 5th, 2017, Dr. Workman  
9 performed a lumbar epidural steroid injection.

10 On June 7, 2017, Dr. Oliver performed a lumbar  
11 epidural steroid injection.

12 On September 12th, 2017, Dr. Perry removed the  
13 pedicle screw instrumentation at L4-5 and L5-S1 and  
14 explored the posterior spinal fusion at L4-5 and L5-S1.

15 On September 26, 2017, Dr. Perry performed an  
16 anterior cervical decompression and fusion at C5-6.

17 The employee underwent post-op physical  
18 therapy.

19 The employee continued to treat with Dr. Oliver  
20 in 2018.

21 On January 29, 2018, the employee saw  
22 Dr. Munoz-Broeckmann who diagnosed him with  
23 post-traumatic stress disorder, major depressive  
24 disorder, occupational problems, insufficient social  
25 insurance or welfare support and panic disorder.

1           On September 5th, 2018, a spinal cord  
2 stimulator trial was performed by Dr. Oliver to help  
3 with the pain. The employee noted it worked on his leg  
4 pain but not his back pain. Therefore, a permanent SCS  
5 was declined by the employee.

6           Throughout 2019 the employee treated with  
7 Dr. Patel for his pain complaints. He also sought  
8 treatment with Dr. Guevara in July 2019 for his anxiety  
9 and depression.

10           The employee saw Dr. Patel throughout 2020.  
11 The last report is dated March 18, 2021 from  
12 Dr. Lipshutz. An SCS trial is being considered with  
13 newer technology to address the employee's severe back  
14 and leg pain.

15           On June 25th, 2018, the employee requested  
16 permanent total disability status via his attorney. On  
17 July 9th, 2018, ARMI denied this request. On August 28,  
18 2018, a Hearing Officer affirmed ARMI's determination.  
19 On August 11, 2019, an Appeals Officer reversed the  
20 Hearing Officer and ARMI, thereby granting the employee  
21 permanent total disability. On January 21, 2020, the  
22 District Court affirmed the Appeals Officer. On  
23 November 23rd, 2020, the Nevada Supreme Court affirmed  
24 the District Court and the Appeals Officer. Therefore,  
25 the employee was granted permanent total disability

1 status effective June 25th, 2018.

2 This submission contains payment of PTD from  
3 June 25th, 2018 through December 31, 2020. This  
4 gentleman is entitled to a yearly cost-of-living  
5 allowance pursuant to NRS 616C.473. A Permanent Total  
6 Disability Report of Employment, Form D-14, for 2020 was  
7 submitted in this request.

8 That's all.

9 BOARD CHAIR FOUNTAIN: Thank you, Vanessa.

10 MS. SKRINJARIC: Rebecca, you're kind of  
11 breaking up.

12 BOARD CHAIR FOUNTAIN: Okay. Can you hear me  
13 okay now?

14 MS. SKRINJARIC: That's much better.

15 BOARD CHAIR FOUNTAIN: Okay. Are there any  
16 comments from the Board members?

17 BOARD MEMBER WALKER: None.

18 BOARD CHAIR FOUNTAIN: And Joyce?

19 BOARD MEMBER SMITH: I don't have any.

20 BOARD CHAIR FOUNTAIN: Okay. Are there any  
21 comments from Mr. Bordelove?

22 MR. BORDELOVE: No comments.

23 BOARD CHAIR FOUNTAIN: And is Mr. Staub on this  
24 one?

25 MR. STAUB: Yes. And we agree with the

1 recommendation, Madam Chair.

2 BOARD CHAIR FOUNTAIN: Then, I will take a  
3 motion to approve the recommendation.

4 BOARD MEMBER WALKER: Motion to approve the  
5 recommendation.

6 BOARD CHAIR FOUNTAIN: And second?

7 BOARD MEMBER WALKER: I think, you have to  
8 second it.

9 BOARD CHAIR FOUNTAIN: Sorry. I'm breaking up  
10 a bit. I second the motion. All in favor?

11 BOARD MEMBER WALKER: Aye.

12 BOARD CHAIR FOUNTAIN: The motion is passed.  
13 Okay. So, I think, the --

14 MR. STAUB: Madam Chair, this is Richard Staub.  
15 We're going to sign off right now. Okay with you?

16 BOARD CHAIR FOUNTAIN: Thank you, Mr. Staub.

17 All right. So moving on, item number 7, action  
18 on the Eighth Judicial District Court's February 17,  
19 2021 Decision and Order Granting Petition for the  
20 Judicial Review in North Lake Tahoe Fire Protection  
21 District v. Board of Administration of the Subsequent  
22 Injury Account for the Association of Self-Insured  
23 Public or Private --

24 MS. SKRINJARIC: Rebecca, you kind of, you went  
25 out again.

1 BOARD MEMBER WALKER: We lost her.

2 MS. SKRINJARIC: We'll just wait for her to log  
3 back on.

4 BOARD MEMBER WALKER: Okay.

5 (There was a pause in the meeting.)

6 BOARD CHAIR FOUNTAIN: Can you hear me now?

7 MS. SKRINJARIC: We can.

8 BOARD CHAIR FOUNTAIN: Okay. I'm so sorry.  
9 I'm having difficulty.

10 Moving on, I'll try to read item 7 again.

11 Action on the Eighth Judicial District Court's  
12 February 17, 2021 Decision and Order Granting Petition  
13 for Judicial Review in North Lake Tahoe Fire Protection  
14 District v. Board of Administration of the Subsequent  
15 Injury Account for the Association of Self-Insured  
16 Public or Private Employers, case number A-19-804477-P,  
17 for possible action.

18 Mr. Bordelove, could you advise us on this.

19 MR. BORDELOVE: Sure. So as you know, this  
20 case has a very convoluted history. The Nevada Supreme  
21 Court eventually overturned the Board's decision or  
22 reversed it, sent it back for remand. It went back up  
23 to the Eighth Judicial District Court, which said that  
24 the Board's order actually didn't comply with that, with  
25 that order.

1           At this point in time, there's not really much  
2 to do except approve payment of the claim. And Vanessa  
3 can correct me if I'm wrong. But, I believe, the amount  
4 of verified costs was \$115,429.03. I can go ahead and  
5 read some of the -- the order is quite lengthy. You  
6 should have received it in your materials. I'm hoping  
7 you all read it. But I'm fine with reading some  
8 portions, at least the pertinent portions into the  
9 record, if that would be helpful. Or you could simply  
10 make a motion to approve that amount. The Board's  
11 preference.

12           BOARD MEMBER WALKER: Can you just -- I read  
13 it, but can you just kind of give a brief synopsis of  
14 what the District Court said?

15           MR. BORDELOVE: Sure, happy to. So I did note  
16 a few parts of the order that kind of explain the meat  
17 of it. But, essentially, the employee was evaluated by  
18 a Dr. Betz. He's a physician certified by the State of  
19 Nevada. He evaluated the employee and determined the  
20 employee had sustained a 21 percent whole person  
21 impairment, half of which was apportioned to the  
22 preexisting lumbar spine pathologies.

23           The decision goes on to note that in November  
24 of 2011, Dr. Betz performed a subsequent injury fund  
25 analysis, reiterated his findings which apportioned the

1 21 percent whole person impairment at 50 percent for the  
2 preexisting spinal pathologies and 50 percent for the  
3 subsequent industrial injury. Thus, Dr. Betz  
4 apportioned at least 10 percent whole person impairment  
5 to the preexisting lumbar pathologies.

6           The next part of the decision also says that in  
7 his opinion 95 percent of the costs of the current claim  
8 was attributable to the preexisting pathologies of the  
9 lumbar spine. Therefore, it was his opinion that the  
10 November 7th claim was clearly eligible for Subsequent  
11 Injury Account reimbursement.

12           Going a little bit further into it on sort of  
13 the legal analysis tying it into the facts, in this  
14 case, the SIA Board erred in its assessment as to what  
15 the law required the District to prove, and how under  
16 the law these requirements could be proven, and then, in  
17 turn, further erred in legally concluding that it could  
18 not be reasonably and fairly inferred from the written  
19 record in the case that the District retained its  
20 employee in employment after acquiring knowledge of a  
21 qualifying impairment.

22           Initially, the SIA Board again errantly held  
23 that the law required the District to prove that it had  
24 knowledge by written record of the specific medical  
25 condition known as spondylolisthesis before the



1 occurrence of the November 2007 subsequent injury. In  
2 the remand decision, the Board worded this requirement  
3 as follows. Here -- and this is quote. Here, in this  
4 case, is there proof by written record from which it  
5 might be fairly and reasonably inferred that prior to  
6 the date of the subsequent injury, the District knew of  
7 the injured worker's spondylolisthesis, since  
8 spondylolisthesis is the condition relied upon by the  
9 applicant to justify the award?

10           As concerns the 6 percent whole person  
11 impairment, the employer need not know of what specific  
12 medical condition is an employee that supports the  
13 6 percent whole person impairment. Cited to North Lake  
14 Tahoe, the Nevada Supreme Court's decision. Moreover,  
15 the condition, any condition under the statute, in the  
16 employee of which the employer has knowledge before the  
17 occurrence of the subsequent injury need only support a  
18 rating of a 6 percent WPI under the AMA guide; it is  
19 permissible, and does not defeat the employer's claim  
20 for reimbursement, if the rating evaluation that  
21 determines the existence of a 6 percent WPI is conducted  
22 after the occurrence of the subsequent injury. Cited to  
23 this Board's Decision on Remand at 4 at note 2. The  
24 written record in this case included the expert opinions  
25 of two physicians certified by the State of Nevada to

1 rate permanent impairments under the AMA Guides, namely  
2 Dr. Betz and Dr. Berg, and each concurred that the  
3 chronic or long-standing back condition of the employee  
4 supported a 10 percent whole person impairment. Hence,  
5 it can be reasonably inferred from the record in the  
6 case that the district employee suffered from at least a  
7 6 percent whole person, WPI in his lumbar spine before  
8 the occurrence of the subsequent injury in November  
9 2007, and the legal conclusion of the SIA Board to the  
10 contrary was further legal error, prejudice to the  
11 District and PACT.

12 And, additionally, the court, after they  
13 delivered the analysis, ordered that the Board's  
14 Decision on Remand is reversed and the SIA Board is  
15 hereby directed to grant the claim made by the District  
16 and PACT for reimbursement of costs incurred in  
17 connection with the November 2007 subsequent injury  
18 claim of the district's employee. Reimbursements of  
19 such costs are to be made from the Subsequent Injury  
20 Account over which the Board presides.

21 And so that's the decision. So, essentially,  
22 all you need to do is sort of administrative in  
23 approving exact costs, which, again, Vanessa can correct  
24 me if I'm wrong, but from her previous recommendation,  
25 which I'm taking this number from, before this went down

1 and everything, back in May 2013, and that's that the  
2 verified costs were \$115,429.03.

3 Please let me know if you have any questions.

4 MS. SKRINJARIC: The cost amount is correct.

5 BOARD CHAIR FOUNTAIN: Thank you,  
6 Mr. Bordelove.

7 Allen or Joyce, do either of you have any more  
8 comments to make?

9 BOARD MEMBER WALKER: No.

10 BOARD CHAIR FOUNTAIN: Can you guys hear me  
11 okay?

12 MS. SKRINJARIC: Yes.

13 BOARD MEMBER WALKER: Yeah, I can hear you.

14 BOARD CHAIR FOUNTAIN: Okay. So then I'm going  
15 to submit a motion or request a motion to approve the  
16 payment of \$115,429.03. Is there a motion?

17 BOARD MEMBER WALKER: Motion to approve  
18 payment.

19 BOARD CHAIR FOUNTAIN: Is there a second?

20 BOARD MEMBER WALKER: Motion to approve  
21 payment.

22 MS. SKRINJARIC: Joyce?

23 BOARD MEMBER SMITH: I'm back.

24 MS. SKRINJARIC: Okay.

25 BOARD CHAIR FOUNTAIN: Was that -- I'm sorry.

1 Was there a second?

2 I'm sorry. I know I'm probably losing you  
3 guys. Are you guys there?

4 BOARD MEMBER SMITH: I am here.

5 BOARD CHAIR FOUNTAIN: Okay. My apologies  
6 again. And, then, Joyce, was there a second?

7 BOARD MEMBER SMITH: Sure. Second that.

8 BOARD CHAIR FOUNTAIN: All in favor?

9 (Board members said "aye.")

10 BOARD CHAIR FOUNTAIN: Motion accepted and  
11 approved. Thank you.

12 Okay. So moving on to item 8, additional  
13 items, general matters of concern to the Board members  
14 regarding matters not appearing on the agenda. Are  
15 there any general matters that need to be?

16 BOARD MEMBER SMITH: I have nothing.

17 BOARD CHAIR FOUNTAIN: Nothing. I would just  
18 like to bring one thing up that now is kind of a  
19 concern, and this is probably directed at Mr. Bordelove.  
20 Considering that we did approve the one case and can set  
21 a precedence, and then we moved into the second case  
22 where we denied or went along with the -- I'm sorry, we  
23 approved, and they were very similar. And I want to  
24 know, is there something that we, as Board members,  
25 should be concerned about in this situation going

1 forward?

2 MR. BORDELOVE: No, I don't believe there's  
3 been a concern. If you'd like to do hearings from now  
4 on, you can do that as a matter of policy. But it  
5 doesn't set any precedent by approving that one claim.  
6 Based on your comments that you all made in that claim,  
7 it sounded as though you believe that the employer had  
8 notice from various things you saw in the record. So it  
9 didn't seem to be the case in the second one.

10 Also, the second one seemed to have more of an  
11 issue on whether there was a qualifying similar to the  
12 North Lake Tahoe case we just discussed, whether that  
13 could be reasonably included from the record. So they  
14 seem to be distinguishing cases, in my humble opinion.

15 BOARD CHAIR FOUNTAIN: Thank you,  
16 Mr. Bordelove.

17 Joyce or Allen, did you guys have any comments  
18 for this part?

19 BOARD MEMBER SMITH: I do not.

20 BOARD MEMBER WALKER: You know, I felt like we  
21 did the right thing in the first one. The second one,  
22 I, quite honestly, didn't listen to the whole thing,  
23 because I wasn't involved in this particular. Again, I  
24 kind of -- I don't know. I think, there's a fine line  
25 of are we wasting the time to come back and back and

1 back again for some of these.

2 I'd appreciate it, Mr. Bordelove, if you could  
3 kind of at some point even send us, send me some  
4 information on those statutes a little more so I can  
5 study up and understand them a little more maybe.

6 MR. BORDELOVE: It would be my pleasure. I  
7 would be happy to. We'll connect sometime after the  
8 meeting.

9 BOARD MEMBER WALKER: Okay. Yeah. Yeah, you  
10 have my email, or you can call me, either one. And I  
11 just, you know, I want to make the right decisions, but  
12 in the same, you know, we do have -- we do need to have  
13 a duty, I feel, to move them along and not spend a lot  
14 of time and waste a lot of money fighting them if we  
15 shouldn't be. But if we need to, we need to. And I  
16 just want to understand it better on my end.

17 MR. BORDELOVE: My pleasure. I'm happy to do  
18 it.

19 BOARD CHAIR FOUNTAIN: Thank you. I would like  
20 that same information when you do email it,  
21 Mr. Bordelove.

22 MR. BORDELOVE: Absolutely. No problem  
23 whatsoever.

24 BOARD CHAIR FOUNTAIN: Thank you.

25 Old and new business? Is there anything we

1 need to know, Vanessa?

2 MS. SKRINJARIC: No.

3 BOARD CHAIR FOUNTAIN: Okay. Schedule of the  
4 next meetings. At the moment, we are scheduled for  
5 September 16th, 2021 and November 18, 2021. Does anyone  
6 have any conflicts with that?

7 MS. SKRINJARIC: Nope.

8 BOARD MEMBER WALKER: At this point, no.

9 BOARD CHAIR FOUNTAIN: Okay. I think, then,  
10 possible -- is there a motion to approve?

11 BOARD MEMBER WALKER: Motion to --

12 BOARD CHAIR FOUNTAIN: Approve the dates, the  
13 next meeting dates.

14 BOARD MEMBER WALKER: I'm sorry. You're  
15 breaking up.

16 BOARD CHAIR FOUNTAIN: Motion on the two dates  
17 of our next meetings.

18 BOARD MEMBER WALKER: Yes, I'll motion to that.

19 BOARD CHAIR FOUNTAIN: Is there a second?

20 BOARD MEMBER SMITH: I second.

21 BOARD MEMBER WALKER: I think, I'm losing  
22 everybody. So I'll see you next time.

23 BOARD MEMBER SMITH: We adjourned.

24 BOARD MEMBER WALKER: Okay. Good.

25 BOARD CHAIR FOUNTAIN: Is there any comment,

1 any public comment?

2 MS. SKRINJARIC: There are no public here.

3 BOARD CHAIR FOUNTAIN: That's right. Okay. So  
4 hearing none, can we motion to adjourn?

5 BOARD MEMBER SMITH: I motion to adjourn.

6 BOARD MEMBER WALKER: I second it.

7 BOARD CHAIR FOUNTAIN: All in favor?

8 (Board members said "aye.")

9 BOARD CHAIR FOUNTAIN: Thank you very much,  
10 everybody. Appreciate all the time and the energy that  
11 went into this particular session.

12 MS. SKRINJARIC: Okay.

13 BOARD CHAIR FOUNTAIN: Thank you, Vanessa.

14 MS. SKRINJARIC: Okay. Bye.

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