

**BOARD FOR THE ADMINISTRATION OF SUBSEQUENT INJURY ACCOUNT FOR ASSOCIATIONS OF SELF-INSURED EMPLOYERS**

**Minutes of the Meeting held March 22, 2022**

**1. Roll Call**

At 10:00 a.m. on March 22, 2022, the meeting of the Board for the Administration of Subsequent Injury Account for Associations of Self-Insured Employers was held in person at the Division of Industrial Relations, Workers' Compensation Section, 3360 West Sahara Avenue, Suite 250 and via telephone conference, and was called to order. Roll call was taken. The board members present were the Chair, Bryan Wachter (representing the Builders Association of Western Nevada), Joyce Smith (representing the Builders Association of Western Nevada), and Allen Walker (representing Nevada Transportation Network). Others present were Karissa D. Neff, Esq. (Nevada Attorney General's Office (Board Counsel)), Barbara Foster (DIR), Christopher Eccles, Esq. (DIR Division counsel), and Justin Taruc (DIR Division Counsel).

**2. Public Comment**

No items for public comment were raised.

**3. Approval of Agenda**

Bryan Wachter discussed that there had been a request to continue agenda item No 5(a). There being no objection, the agenda item was continued. Allen Walker made a motion to approve the meeting's agenda with the removal of agenda item No. 5(a), which was seconded by Joyce Smith. The motion passed unanimously.

**4. Action on the Recommendation of the Administrator of the Division of Industrial Relations for Approval of the following supplemental request(s) for reimbursement from the Subsequent injury Account for Associations of Self-Insured Public or Private Employers.**

- a. **C143-03-01086-01– PACT Mineral County-** Barbara Foster read the Administrator's memorandum regarding his recommendation to approve the request for reimbursement from the Subsequent Injury Account pursuant to NRS 616B.578. Joyce Smith made a made a motion to approve the third supplemental request presented by the applicant in the amount of \$42,550.22. Mr. Walker seconded the motion. The motion passed by unanimous vote.
- b. **5001-0640-2017-0358- Packer Transportation Company.** Allen Walker recused himself because Nevada Transportation Network is the association he represents. Barbara Foster read the Administrator's memorandum regarding his recommendation to approve the request for reimbursement from the Subsequent Injury Account pursuant to NRS 616B.578. Joyce Smith made a motion to approve the request for reimbursement submitted by the applicant in

the amount of \$18,876.68. Bryan Wachter seconded the motion. The motion passed by unanimous vote.

**5. Action on Recommendation of the Administrator of the Division of Industrial Relations for Denial of a claim for the following request(s) for reimbursement from the Account for Associations of Self-Insured Public or Private Employers.**

**a. 5012-1691-2018-0128- K& H Consulting Inc./Majestic Marble & Tile**

The applicant's attorney requested that this item be continued. There being no objection to the request, Bryan Wachter granted the continuance, and this item was removed from the agenda.

**6. The following request for reimbursement, which the Board hears *de novo*, is a contested case which will be adjudicated pursuant to the Nevada Administrative Procedures Act, NRS 233B.010, *et seq.*:**

**1. 5001-1211-2019-0855- Combs Brothers LLC**

Chris Eccles, Esq. appeared on behalf of the Division. Richard Staub, Esq. appeared on behalf of the applicant/employer.

The following exhibits were admitted into evidence without objection:

**Division's exhibits:** Administrator's Recommendation dated April 23, 2021 (with its exhibits 1-51)

**Claimant's exhibits:**

- Exhibit A Associated Risk Management Inc's ("ARMI") January 16, 2018 letter
- Exhibit B ARMI's July 23, 2018 letter
- Exhibit C ARMI's August 2, 2018 letter
- Exhibit D ARMI's August 7, 2018 letter
- Exhibit E ARMI's September 13, 2018 letter

Mr. Staub gave his opening statement. Mr. Eccles gave his opening statement.

Mr. Staub then called his first witness, Sandy Belcher ("Belcher"), a claims examiner for ARMI and conducted direct examination. Mr. Eccles cross-examined the witness. Mr. Staub had no redirect. The Board had no questions for Belcher.

Mr. Staub then called his second witness, Angel Mendez, a representative of Combs Brother's LLC. Mr. Staub conducted direct examination of the witness. Mr. Eccles cross-examined the witness. On re-direct, Mr. Staub questioned the witness. Bryan Wachter had a question for the witness but withdrew it.

The Division did not call any witnesses.

Both parties rested their case.

Mr. Staub gave his closing statement. Mr. Eccles gave his closing statement.

The Board engaged in deliberations. Joyce Smith discussed that small companies use a third-party administrator like ARMI for a reason but don't always stamp their correspondence. She further discussed that the object of the fund is to keep injured persons working. Bryan Wachter discussed that the Board should not make the process to collect from the fund too tedious and that he was compelled by the evidence and testimony presented that the injured employee's employer knew that the employee was injured but kept him employed. Based on the foregoing, he stated he was comfortable approving the applicant's request for reimbursement.

Joyce Smith made a motion to overturn the Division's Administrators recommendation denying the applicant's request for reimbursement for the lumbar spine pursuant to NRS 616B.578(4), and to accept the employer/applicant's request for reimbursement from the account in the amount of \$122,335.70. Bryan Wachter seconded the motion. The motion passed unanimously.

## **7. Additional Items**

- a. General Matters of Concern to Board Members regarding matters not appearing on the agenda. It was discussed that Allen Walker was retiring from the Board, and this was his last meeting. He was thanked for his service.
- b. Old and new business. Joyce Smith discussed that she would like to discuss the Board's retention of its former private counsel versus the Nevada Attorney General's Office serving as Board counsel. Board counsel agreed to put the item on the next agenda for discussion.

## **8. Adjournment**

Joyce Smith made a motion to adjourn the meeting which was seconded by Bryan Wachter. The motion passed by unanimous vote. The meeting was adjourned.