

1 cancer. Tr., 24; 5-8, 25; 6-12. In this case, the cancer in the lung was a metastasis of the original
2 renal cell carcinoma of the kidney. It was secondary to the kidney cancer. Tr., 25; 20-25, 26; 1-
3 5. The medical records established that had the renal cell carcinoma of the kidney not
4 metastasized, there would have been no renal cell carcinoma of the lung. Tr., 28; 16-17, 38; 12-
5 17, 43; 10-12, 45; 9-10.

6 Consistent with this diagnosis, Richard W. Kudrewicz, M.D., stated that 100% of the
7 treatment and care for the renal cell carcinoma of the lung, had to be attributed to the renal cell
8 carcinoma of the kidney. Without the renal cell carcinoma of the kidney, there would have been
9 no need to treat the renal cell carcinoma of the lung because it would not have existed in the first
10 place.

11 NRS 616B.557(1), quoted in the margin,² requires an applicant to prove the existence of a
12 preexisting permanent physical impairment and a subsequent disability, industrially related,
13 which combine to substantially increase the compensation paid the injured worker. The elements
14 of NRS 616B.557(1) include, therefore: (a) proof of a preexisting permanent impairment as
15 defined by NRS 616B.557(2) and a subsequent disability arising out of and in the course and
16 scope of the injured worker's employment; and, (b) proof the two then combine to substantially
17 increase the cost of compensation paid. As a threshold proposition the applicant must be able to
18 show these two conditions have been satisfied before eligibility for reimbursement can be
19 established.

20 The question this case presents is whether the applicant can meet this threshold
21 requirement when the subsequent condition relied upon is only a sequella of the first or in this
22 case, when the cancer found in the lung was secondary to or a progression of the original renal
23

24 ² NRS 616B.557 Payment of cost of additional compensation resulting from subsequent injury
25 of employee of self-insured employer. Except as otherwise provided in NRS 616B.560:

26 1. If an employee of a self-insured employer has a permanent physical impairment from any cause or
27 origin and incurs a subsequent disability by injury arising out of and in the course of his employment
28 which entitles him to compensation for disability that is substantially greater by reason of the combined
effects of the preexisting impairment and the subsequent injury than that which would have resulted from
the subsequent injury alone, the compensation due must be charged to the Subsequent Injury Account for
Self-Insured Employers in accordance with regulations adopted by the Board.

1 cell carcinoma of the kidney that had metastasized to or manifested itself in the lung and a
2 physician attributed 100% of the treatment and care of the cancer in the lung to the original renal
3 cell carcinoma of the kidney.

4 Stated alternatively, does the metastatic relocation to the lung of the renal cell carcinoma
5 originally found in the kidney, rise to the level of a subsequent disability, industrially related,
6 which satisfies the requirement that the applicant prove a pre-existing permanent impairment **and**
7 a subsequent disability, which then combine to substantially increase the cost of compensation
8 paid the injured worker, when, also, according to Dr. Kudrewicz, 100% of the cost of treatment,
9 *see* 2SR., 9³; was attributable to the original renal cell carcinoma of the kidney? Additionally,
10 does the lung condition rise to a second disability when, according to Dr. Kudrewicz, "[t]here is
11 no evidence of independent lung disease..." and "[t]he only pathology in this gentlemen's [the
12 injured worker or deceased fire fighter] lung is indeed metastatic cancer, which directly relates to
13 the right [kidney] renal carcinoma." Kudrewicz report, Exhibit NNN to the 2SR, p. 3.

14 With the exception of the retention issue, NRS 616B.557(4), the Board accepted the
15 recommendation of the Administrator and denied the application for reimbursement based upon a
16 failure of proof under NRS 616B.557 (1) (3) and (5). The Board concluded that the metastatic
17 migration of the right kidney renal cell carcinoma to the lung did not amount to a subsequent
18 disability and, therefore, the requirement to prove the presence of both a preexisting permanent
19 impairment and a subsequent industrial condition was not satisfied. The Board's Findings of
20 Fact, Conclusions of Law and Decision in support of this determination follow, below:

21 **FINDINGS OF FACT**

22 1. This case was first heard by the Board on January 31, 2007, when the Board
23 issued a tentative ruling upholding the recommendation of the Administrator, Division of
24 Industrial Relations (DIR) to reject the application because the applicant failed to satisfy the
25 requirements of NRS 616B.557 (1) (3) and (5).

27 ³"1SR." stands for the Staff Report dated April 25, 2006, and "2SR" stands for the Staff Report
28 dated September 15, 2006.

1 2. The City of North Las Vegas is the applicant and self-insured employer in this
2 matter. The matter was submitted by the third-party administrator, Nevada Comp First.

3 3. In a letter dated February 7, 2007, transmitted by mail on February 8, 2008, the
4 applicant was notified by the Board's legal counsel, Charles R. Zeh, Esq., Zeh & Winograd, of
5 the Board's tentative decision to accept the Administrator's recommendation and deny the claim.
6 Exhibit 1.

7 4. In letters dated February 16, 2007 and February 21, 2007, correctly addressed to
8 the Board's legal counsel, the applicant gave notice of its appeal of the tentative decision of the
9 Board. Exhibit 2.

10 5. The applicant's notice of appeal of the tentative decision arrived at the office of
11 the Board's legal counsel within 30 days of the notice to the applicant of the tentative decision of
12 the Board from which the appeal has been taken.

13 6. The appeal was agendized for March 22, 2007, but at the request of Daniel L.
14 Schwartz, Esq., Santoro, Driggs, Walch, Kearney, Johnson & Thompson, was continued until
15 April 19, 2007. Applicant's counsel again, requested a continuance because of a conflict on his
16 calendar which was granted by Chairman MacKay prior to the April 19, 2007 meeting. The
17 matter was finally heard May 17, 2007, when the *de novo* hearing was conducted and a vote
18 taken by the Board.

19 7. Daniel L. Schwartz, Esq., appeared at the May 17, 2007, hearing on behalf of the
20 applicant. Tr., p. 2, 10.

21 8. John F. Wiles, Esq., Legal Counsel for the Administrator, DIR, appeared on be-
22 half of the Administrator at the May 17, 2007, hearing on behalf of the Administrator. Tr., p.2, 9.

23 9. Jacque Everhart, the Administrator's liaison to the Board, also appeared on behalf
24 of the Administrator at the hearing of May 17, 2007, Tr., p. 2; 8.

25 10. Bruce MacKay, Chairman of the Board, Vice-chairperson Victoria Robinson, Tina
26 Sanchez, RJ LaPuz and Donna Dynek participated in the hearing of May 17, 2007. Tr., p. 2.

27 11. A quorum of the Board participated in the hearing concerning this matter.

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1 12. Admitted into evidence without objection were the following exhibits: Tr., 5; 2-
2 19.

3 Exhibit 1 Letter dated February 7, 2007, advising of the tentative decision of the Board,
4 served by mail on February 8, 2007, upon applicant's legal counsel, amongst
5 others.

6 Exhibit 2 Two letters dated February 16, 2007, notice of appeal, and February 21, 2007,
7 amended notice of appeal, which means that the appeal itself was timely.

8 Exhibit 3 Administrator's Staff Report dated September 15, 2006.

9 Exhibit 4 Administrator's Staff Report dated April 25, 2006, with exhibits attached A and
10 going consecutively through Exhibit OOO, plus the verification of costs.

11 13. The applicant offered the following exhibits for admission into evidence: Tr.,
12 5;21-25, 6; 1-17.

13 1 Payroll status change history computer document.

14 2 Employee's Claim for Compensation/Report of Initial Treatment, Form C4, dated
15 10-26-2001

16 3 Employer's Report of Industrial Injury or Occupation Disease, Form C3, undated

17 4&5 CDS CompFirst letter, dated December 13, 2001, to the injured worker

18 6&7 Nevada Department of Administration Hearings Division, decision and order.

19 8 Certificate of Mailing to the decision

20 9 Another Employee's Claim for Compensation/Report of Initial Treatment, Form
21 C4

22 10 Another Employee's Claim for Compensation/Report of Initial Treatment, Form
23 C4, dated 5-4-2002

24 11 Law Offices of Hardy & Hardy letter, dated April 3, 2002, to Cynde Swandal,
25 Claims Examiner, CDS Comp First

26 12 Employer's Report of Industrial Injury or Occupation Disease, dated 5-9-2002,
27 Form C3

28 13 San Francisco Oncology Associates Medical Group, Inc., letter dated June 19,
29 2002, to Patrick Goodrich, RN, OCM

30 14&15 CDS Comp First letter, dated July 10, 2002, to the injured worker

31 16 Memo of James Spellman, M.D., dated May 9, 2007, to Amanda Thomas

32 14. The applicant also offered the "CV" of Dr. Spellman. Tr., 6; 20-25.

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1 15. All of the exhibits offered by each of the parties were admitted into evidence
2 without objection. Tr., 7; 11-21.

3 16. The injured worker was hired by the applicant as a fire fighter on March 26, 1993.
4 2 SR p. 2.

5 17. On October 5, 2001, it was discovered that the firefighter suffered from renal cell
6 carcinoma, located in the right kidney. Exhibit J, to 2 SR.

7 18. The next day, the kidney was removed (right radical nephrectomy) by Victor
8 Grigoriev, M.D. Exhibit L to 2 SR.

9 19. On October 19, 2001, a C-4 form was completed for the renal cell carcinoma,
10 right kidney, *i.e.*, right kidney sarcomatoid renal cell carcinoma. Exhibit M to 2 SR.

11 20. The City of North Las Vegas completed the C-3 form in response to the claim,
12 doubting its validity and questioning how the renal cell carcinoma was work related. Exhibit O
13 to 2 SR.

14 21. By November 29, 2001, the metastasis of the renal cell carcinoma was suspected
15 as stated in a letter from David R. Minor, M.D., to the surgeon, Dr. Grigoriev. Exhibit T to 2 SR.

16 22. Dr. Minor referred the injured worker to Ralph Roah, M.D., for surgical
17 evaluation of the suspected metastasis and a biopsy of the suspected area, a lung lesion. *Ibid.* By
18 December 4, 2001, it was established that the cancer had metastasised to spindle cell carcinoma
19 in the lung (right lung, upper lobe mass, Exhibit U to 2 SR) consistent with sarcomatoid renal
20 cell carcinoma. 2 SR at p. 4, Exhibit V to 2 SR.

21 23. Then, in a letter dated December 13, 2001, from Leslie Bell for CompFirst, the
22 third party administrator, the injured worker was notified that his application for workers
23 compensation for the renal cell carcinoma, right kidney, was denied. Exhibit Y to 2 SR.

24 24. As of January 15, 2002, the diagnosis was still renal cell cancer with pulmonary
25 "mestastasis." Exhibit AA to 2 SR.

26 25. As of February 6, 2002, the diagnosis was "[h]istory of metastic renal cell
27 carcinoma with pleural metastasis." Exhibit CC to 2 SR.

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1 26. In a report dated March 7, 2002, his condition was described in part as having
2 "...metastatic carcinoma to the lung." Exhibit EE to 2 SR.

3 27. Meanwhile, on February 2, 2002, the Hearing Officer affirmed the decision of the
4 third party administrator to deny the claim as non-work related. Exhibit VV, p. 4, to 2 SR.

5 28. On May 2002, Dr. Minor completed a C-4 form for the injured worker for his
6 renal cell carcinoma of the lung. *Ibid.*

7 29. The third party administrator accepted this claim on July 10, 2002, under claim
8 number NV 0200066. *Ibid.* The third party administrator expressly stated that the kidney cancer
9 would not be accepted as a part of this claim. The claimant then appealed this portion of the
10 determination of July 10, 2002. The parties agreed to by-pass the hearing officer, however, and
11 consolidate this decision within the existing appeal before the Appeals Officer on the original
12 denial of the renal cell carcinoma involving the right kidney. *Ibid.*

13 30. In a decision dated July 17, 2003, the Appeals Officer, Michelle L. Morgando,
14 Esq., determined that the decision of the third party administrator of July 10, 2002, to exclude the
15 original claim for sarcomatoid renal cell carcinoma was modified to the extent that it again
16 denied the renal cell carcinoma involving the right kidney. The Appeals Officer affirmed the
17 decision of the third party administrator to accept the metastasis of the renal cell carcinoma of the
18 right lung. The Appeals Officer went further and held that the Hearing Officer's decision dated
19 February 1, 2002, affirming the third party administrator's decision to deny the claim for the
20 sarcomatoid renal cell carcinoma was reversed. The Appeals Officer finally held that the
21 sarcomatoid renal cell carcinoma [the original cancer diagnosis] and all sequela shall be deemed
22 compensable under NRS 617.453 **under the October 2, 2001 claim for occupational cancer,**
23 or in other words, the entirety of the cancer condition of the injured worker was bundled and
24 considered under the original renal cell carcinoma involving the right kidney. *Id.* at pp., 9, 10.

25 31. The injured worker expired on December 11, 2003, with cause of death indicated
26 as "CA KIDNEY." Exhibit MMM to 2 SR. The Certificate of Death also stated that the interval
27 between onset and death was "three years." *Ibid.*

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1 32. The injured worker was never evaluated and given a disability rating for his
2 condition.

3 33. Richard W. Kudrewicz, M.D., however, conducted a record review for purposes
4 of evaluating the claim for subsequent injury purposes. Exhibit NNN at p. 1 to 2 SR.

5 34. According to Dr. Kudrewicz, the loss of a kidney equates to a 10% impairment
6 whole man, assuming a normal remaining kidney. *Id.*, at p. 2. This was the preexisting
7 condition, according to Dr. Kudrewicz. *Ibid.*

8 35. Dr. Kudrewicz conducted his evaluation, from the premise as stated by him that
9 the metastasis of the renal cell carcinoma to the lung constituted the subsequent disability. *Ibid.*

10 36. Dr. Kudrewicz then stated:

11 The metastatic disease is directly related to his [the injured worker's] primary
12 renal carcinoma. There is no evidence of independent lung disease in this
13 gentleman. The only pathology in this gentleman's lung is indeed the metastatic
14 cancer, which directly relates to his right renal carcinoma. Given the fact that the
15 pathology is 100% related to his preexisting condition, *i.e.*, renal cell carcinoma,
and given the fact that he has no evidence whatsoever of any other lung pathology
it is clear that the second requirement for subsequent injury consideration is met.
Id., at pp. 2,3.

16 37. Dr. Kudrewicz concluded with the following:

17 I would suggest that the entire cost of this gentleman's subsequent claim of
18 11/29/01 is related to his pre-existing pathology. Clearly absent his pre-existing
19 renal carcinoma this gentleman would not have any lung pathology at all. The
total responsibility for his 11/29/01 lung pathology is metastatic disease, which
relates 100% to his pre-existing diagnosis of renal cell carcinoma. *Id.*, at p. 3.

20 38. According to James Spellman, M.D.:

21 Cancers have a tissue of origin, like the kidney. ... Cancers also secrete substances
22 which help them evade the immune system and invade into deeper tissues to
access the blood and lymphatic tissues.

23 When a cancer has spread through the system to take root in another organ, like
24 the lung, this is called a metastasis. Not a lung cancer. A lung cancer is a cancer
arising primarily from the lung, not a manifestation of spread from one organ to
25 the lung.... Applicant's Exhibit 16.

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1 39. During the hearing, counsel for the applicant explained and admitted further:

2 [W]hen the cancer has spread through the system to take root in another organ,
3 like the lung, this is called metastasis, not lung cancer. A lung cancer is a cancer
4 arising primarily from the lung. Not a manifestation of the spread from one organ
5 to the lung. Tr., 24; 7-11.

6 40. Counsel for the applicant also admitted when describing the interrelationship
7 between the cancer that involved the kidney and the spread of the same cancer to the right lung:

8 There is no question that these two [the renal cell carcinoma involving the lung
9 and the kidney] are tied together, and but for the first one—I mean—what I really
10 want to know, to be honest with you— and I don't know. Maybe I should become
11 an oncologist—is, but for the first one, would there have been a second one? And I
12 don't know the answer. I really don't. Tr., 42; 18-24.

13 41. Finally, commenting upon his own witness, or more specifically, the report he
14 provided from Dr. Spellman, legal counsel for the Board stated:

15 That's what Dr. Spellman also says, then, in his first sentence —excuse me, second
16 paragraph he says, a lung cancer is a cancer arising primarily from the lung, not a
17 manifestation of a spread from one organ—one organ to the lung. And he indicates
18 that this is not lung cancer, this [the condition of the injured worker's lung] is lung
19 metastasis. Tr., 45; 5-11.

20 42. The Board, therefore, concludes that the renal cell carcinoma of the lung is a part
21 of the same or original condition as a metastasis of the renal cell carcinoma involving the right
22 kidney. There is no subsequent disability, only the spread of the original cancer as evidenced by
23 the death certificate which stated that the injured worker expired due to kidney cancer, the
24 original place of the sarcomatoid renal cell carcinoma, the original and only condition contracted
25 by the injured worker that is pertinent to his worker's compensation claim. As Dr. Spellman
26 stated, the sarcomatoid renal cell carcinoma involving the kidney eventually manifested itself in
27 the lung. It was more of the same, only having located or spread, also, to another part of the
28 body. The applicant did not have lung cancer on top of the renal cell carcinoma.

43. To the extent any of the Conclusions of Law set forth below also constitute
Findings of Fact, they are incorporated herein by reference.

CONCLUSIONS OF LAW

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

1 2. The applicant filed a timely appeal of the tentative decision of the Board. NAC
2 616B.7706(1).

3 3. A quorum of the Board was present at all pertinent times to decide this case and to
4 render its decision. NRS 616B.551.

5 4. The burden of proof lies with the applicant to prove that the eligibility criterion set
6 out in NRS 616B.557 have been satisfied. *See, United Exposition Service v. State Industrial*
7 *Insurance System*, 109 Nev. 421, 424, 851 P.2d 423 (1993).

8 5. This case revolves around the meaning of NRS 616B.557(1), which requires that
9 the applicant show that there has been a subsequent disability, which combines with a preexisting
10 condition to substantially increase the compensation paid the injured worker. If either is lacking,
11 *i.e.*, there is only one condition such that there is no preexisting and subsequent condition
12 because there is only one health problem presented to the Board, an applicant fails in its burden
13 of satisfying the eligibility criterion of a statutory scheme which requires proof of: (a) a
14 preexisting permanent physical impairment; and, (b) a subsequent disability.

15 6. Where statutory questions arise, statutory construction begins with the language of
16 the statute itself. *United States v. Thompson*, 941 F.2d 1074, 1077 (10th Cir., 1991), *cert.*
17 *denied*, 503 U.S. 984 (1992).

18 7. It is also true that "[i]f the intent of Congress [or the legislature] is clear, that is
19 the end of the matter; for the court, as well as the agency, must give effect to the unambiguously
20 expressed intent of Congress [or the legislature]." *Chevron U.S.A., Inc. v. Natural Resources*
21 *Defense Council, Inc.*, 467 U.S. 837, 843-44, 104 S.Ct. 2778 (1984). *See also*, _____,
22 to the same effect in Nevada.

23 8. The Board concludes that the Legislature of Nevada meant what it said, when it
24 required proof of a preexisting permanent physical impairment and subsequent disability which
25 must then combine to substantially increase the amount of compensation paid as a condition
26 precedent to eligibility.

27 9. The question, then, this case raises is whether there was proof of a preexisting
28 permanent physical impairment and subsequent disability. The Board concludes that this is not

1 what happened in this case. Whether or not the Appeals Officer determined that the cancer
2 invading the kidney and the cancer implicating the lung were one and the same claim, and to be
3 paid compensation as only one claim, the Board believes there is sufficient medical evidence in
4 the file which shows that the renal cell carcinoma of the lung was the spread or continuing
5 manifestation of the sarcomatoid renal cell cancer involving the kidney. There is only one
6 condition, here, since, as Dr. Kudrewicz stated, the manifestation of the renal cell cancer
7 involving the lung is 100 percent directly related to the renal cell carcinoma located in the kidney
8 and but for the renal cell carcinoma of the kidney, there would be no renal cell carcinoma of the
9 lung.

10 10. Alternatively, as Dr. Spellman stated, when metastatic cancer is involved, there
11 was no cancer of the lung. The cancer in the lung was a spread or manifestation of the cancer
12 which involved the kidney from which it spread.

13 11. In addition, however, it is also true that the Appeals Officer, presiding over the
14 appeal of the denial by the third party administrator of the initial renal cell carcinoma, concluded
15 that the injured worker's condition was all one cancer, and bundled the C-4 claim initiated to
16 establish compensability for the renal cell carcinoma of the lung, with or into the first or original
17 renal cell carcinoma located in the right kidney and paid everything out of that claim.

18 12. Furthermore, since the burden of proof is upon the applicant and the applicant is,
19 itself, uncertain about the status of the metastasis, Tr., 42; 18-24, there is a further failure of
20 proof.

21 13. Also, there is a failure of proof of the combined effects aspect of the applicant's
22 claim since the applicant's own witness, Dr. Kudrewicz, places 100 percent of the subsequent
23 condition upon the original renal cell carcinoma involving the kidney. Alternatively, the report
24 of Dr. Kudrewicz shows that the cancer of both regions of the body are so interrelated that they
25 are one and the same, with the latter, a manifestation or spread of the original condition. The
26 cancer involving the lung was the same cancer that involved the kidney. Dr. Spellman's opinion
27 is to the same effect. The Board is left with the unmistakable conclusion that there is only one
28 condition, renal cell carcinoma, resulting in death attributed to the kidney according to the death

1 certificate, with the kidney cancer being the original place where the cancer was first diagnosed.

2 14. The Administrator also recommended to the Board that the applicant failed to
3 satisfy the requirements of NRS 616B.557(3)(4) and (5). 2 SR 1. It is evident, these
4 recommendations flow directly from the conclusion that there is no preexisting permanent
5 physical impairment and subsequent disability as there was just one condition. The injured
6 worker remained on the payroll, however, and thus, he was retained in that sense. Proof of NRS
7 616B.557(3) and (5) is problematic since it rises and falls upon the premise that there are two
8 conditions, one a preexisting permanent physical impairment and the other, the subsequent
9 disability which, when combined with each other, substantially increase the compensation paid.
10 If there is only one condition, then, there can be no combination, no knowledge of a preexisting
11 permanent impairment, and there can be no preexisting permanent impairment in the first place.
12 If there is but one impairment, there is nothing to precede or follow, stating the obvious.

13 15. The Board, therefore, is obliged to accept the Administrator's recommendation
14 and to deny the claim for failing to satisfy in the first instance, NRS 616B.557(1) and therefore,
15 the applicant must fail to satisfy NRS 616B.557(3) and (5).

16 **DECISION OF THE BOARD**

17 Based upon the Findings of Fact and Conclusions of Law set out above, the
18 recommendation of the Administrator of the Division of Industrial Relations for the State of
19 Nevada to deny the application for reimbursement is affirmed by the Board for the
20 Administration of the Subsequent Injury Account for Self-Insured Employers. The applicant
21 failed to establish by a preponderance of the evidence that NRS 616B.557(1) (3) and (5) were
22 satisfied. The application for reimbursement from the account is hereby denied upon a motion by
23 RJ LaPuz, seconded by Tina Sanchez, made pursuant to NRS 616B.557 (1) (3) and (5) to deny
24 the claim. It was further moved to decline to follow the recommendation of the Administrator
25 with respect to the Administrator's conclusion that NRS 616B.557 (4) had not been satisfied
26 because the Board decided the retention requirement had been satisfied. The fireman was
27 employed following discovery of the onset of renal cell carcinoma. With all members

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1 participating and eligible to vote on the motion, a quorum was present. The motion was duly
2 adopted. Tr., 55; 9-24. The vote was 4 in favor of the motion, 1 opposed (Dynek). Tr., 55; 18-
3 24.

4 Further, at the meeting of the Board held on December 18, 2008, upon a motion by RJ
5 LaPuz, seconded by Tina Sanchez, Board members Chairman Victoria Robinson, Vice-chairman
6 RJ LaPuz and Tina Sanchez, voted to adopt this written decision as the decision of the Board.
7 Member Linda Keenan abstained, as she took no part in the original deliberations. Member
8 Donna Dynek was absent from the meeting. Then Chairman of the Board, Bruce Mackay, is no
9 longer a member of the Board.

10 Dated this 27th day of December, 2008.

11
12 
13 Victoria Robinson, Board Chairman

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Zeh &
3 Winograd, and that on this date I served the attached *Findings of Fact, Conclusions of Law and*
4 *Determination of the Board* on those parties identified below by:

5

6 √	Placing an original or true copy thereof in a sealed envelope, postage prepaid, certified mail/return receipt requested, and placed 7 for collection and mailing in the United States Mail, at Reno, Nevada, 8 Daniel L. Schwartz, Esq. Santoro, Driggs, Walch 9 Kearney, Johnson & Thompson 400 South Fourth Street, Third Floor 10 Las Vegas, NV 89101 11 John F. Wiles, Division Counsel Department of Business and Industry 12 Division of Industrial Relations 1301 North Green Valley Parkway, Suite 200 13 Henderson, NV 89074
14	Personal delivery
15	Telephonic Facsimile at the following numbers:
16	Federal Express or other overnight delivery
17	Reno-Carson Messenger Service
18	Certified Mail/Return Receipt Requested

19 Dated this 7th day of January, 2009.

21 
22 Karen Weisbrot

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