



**Workers'  
Compensation  
Board**

**ANDREW M. CUOMO**  
Governor

**CLARISSA M. RODRIGUEZ**  
Chair

June 30, 2018

The Honorable Andrew M. Cuomo  
Governor of New York  
State Capitol  
Albany, New York 12224

The Honorable Carl E. Heastie  
Speaker  
New York State Assembly  
LOB, Room 932  
Albany, New York 12248

The Honorable John J. Flanagan  
Senate Majority Leader  
New York State Capitol, Room 330  
Albany, New York 12247

Dear Governor Cuomo and Legislative Leaders:

Legislation passed in 2011 requires the NYS Workers' Compensation Board (Board) to prepare a semi-annual report to the Governor and the Legislature regarding the status of the various insolvent group self-insured trusts.

In response to this legislative requirement, I am pleased to present you with a brief analysis of the current status of group defaults, actions taken by the Board to collect from employers of these defaulted trusts, and the current funding status of all other self-insurers.

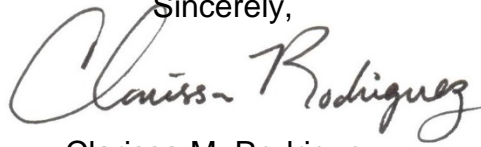
As part of the Business Relief Act passed in the Executive Budget, the Board was granted \$900 million in bonding authority to address group trust defaults. The bonding authority provides small businesses more affordable payment options and final releases from the joint and several liabilities associated with their participation in the insolvent groups. The Board has issued approximately \$370 million in bonds and has used these proceeds to execute twenty Assumption of Liability policies.

Other highlights contained within the report include:

- The outstanding liability for all defaulted trusts administered by the Board has dropped from \$924 million in the first report published on June 30, 2011 to \$34 million in the attached report;
- The Board has signed final settlement agreements with approximately 2,900 defaulted trust members; and

- The total number of defaulted trust claims being administered by the Board has decreased substantially from the 7,515 claims in the first report published on June 30, 2011 to only 203 today, demonstrating the Board's effective management of the claims, including the usage of Assumption of Liability policies.

Sincerely,

A handwritten signature in black ink that reads "Clarissa M. Rodriguez". The signature is written in a cursive, flowing style.

Clarissa M. Rodriguez  
Chair

Enclosure

## NYS Workers' Compensation Board's Semi-Annual Report on Group Self Insured Trusts for June 2018

In accordance with Chapter 57 of the Laws of 2011, the Workers' Compensation Board is hereby reporting on the current status of all insolvent group trusts and the funding positions of currently active self-insured employers.

### I. Insolvent Non-Municipal Group Self-Insured Employers

#### A. Total Liability of Insolvent Non-Municipal Group Self-Insured Employers

The table below displays the current outstanding liabilities as set forth in the most recent audited financial statements. The total liabilities include: claims liability; accrued expenses; accounts payable; unreimbursed WCL §50(5)(g) funds; and accrued NYS Assessments. It does not reflect the Group Self-Insured Trusts (GSITs) assets or collections expected to be recovered from the GSITs members which are reflected in Section III of this report. Further, those GSITs which have executed an Assumption of Liability Policy (ALP) have been removed from this section as the claims liabilities have been effectively capped via an ALP policy with member settlement proceeds and/or litigation proceeds serving to fund the cost of the ALP policy. See Section III infra.

Name of Insolvent Non-Municipal Group Self-Insured Trust	Date of Transition	Total Liability from Previous Audited Financial Statement <sup>^</sup>	Total Liability from Most Recent Audited Financial Statement <sup>^</sup>
Healthcare Industry Trust of New York (HITNY)			<i>Assumption of Liability Executed - See ALP Section</i>
Preferred Manufacturers Insurance Trust Fund			<i>Assumption of Liability Executed - See ALP Section</i>
Healthcare Providers Self Insurance Trust (HCP)			<i>Assumption of Liability Executed - See ALP Section</i>
Manufacturing Industry WC Insurance Trust (NYMIT)			<i>Assumption of Liability Executed - See ALP Section</i>
New York Healthcare Facilities WC Trust (HCF)			<i>Assumption of Liability Executed - See ALP Section</i>
Provider Agency Trust for Human Services (PATH)			<i>Assumption of Liability Executed - See ALP Section</i>
Transportation Industry WC Trust (TRANSPORTATION)			<i>Assumption of Liability Executed - See ALP Section</i>
Auto Service and Repair Self Insurance Trust (AUTO)			<i>Assumption of Liability Executed - See ALP Section</i>
Elite Contractors Trust of New York (ELITE)			<i>Assumption of Liability Executed - See ALP Section</i>
Manufacturing Self Insurance Trust (MSIT)			<i>Assumption of Liability Executed - See ALP Section</i>
Wholesale and Retail WC Trust of New York (WRWCT)			<i>Assumption of Liability Executed - See ALP Section</i>
Builders Self Insurance Trust (BUILDERS)			<i>Assumption of Liability Executed - See ALP Section</i>
Trade Industry WC Trust for Manufacturers (TRADE)			<i>Assumption of Liability Executed - See ALP Section</i>
Real Estate Management Trust of New York (REMTNY)			<i>Assumption of Liability Executed - See ALP Section</i>
New York State Cemeteries Trust (NYSCT)			<i>Assumption of Liability Executed - See ALP Section</i>
Public Entity Trust of New York (PETNY)			<i>Assumption of Liability Executed - See ALP Section</i>

Retail and Wholesale Industry WC Self Insurance Trust (RWWCT)	<i>Assumption of Liability Executed - See ALP Section</i>		
Selective Safety Trust (SELECTIVE)	<i>Assumption of Liability Executed - See ALP Section</i>		
Long Term Care Risk Management Group (LONG TERM CARE)	<i>Assumption of Liability Executed - See ALP Section</i>		
OHI Workers' Compensation Self-Insurance Trust (OHI)	<i>Assumption of Liability Executed - See ALP Section</i>		
Community Residence Insurance Savings Plan Self-Insurance Trust for Workers Compensation (CRISP)	<i>Assumption of Liability Executed - See ALP Section</i>		
New York McDonalds Operators' Workers' Compensation Trust (McDONALDS)	<i>Assumption of Liability Executed - See ALP Section</i>		
Team Transportation Workers' Comp Trust (TEAM)	<i>Assumption of Liability Executed - See ALP Section</i>		
Mercantile Self Insurance Trust	<i>Assumption of Liability Executed - See ALP Section</i>		
Empire State Transportation WC Trust (EMPIRE)	1/01/2012	\$ 36,365,000	\$ 30,546,000
Empire State Towing and Recovery Association Self-Insurance Trust (ESTRA)	8/31/2015	\$ 4,879,000	\$ 3,618,000
<b>Total of All Group Self Insurance Trusts (GSIT)</b>		<b>\$ 41,244,000</b>	<b>\$ 34,164,000</b>
^ Does not reflect amounts held by the WCB or collections expected to be recovered.			

**B. Total Open Claims of Insolvent Non-Municipal Group Self-Insured Employer**

Name of Insolvent Non-Municipal Group Self-Insured Trust	Date of Transition	Number of Open Claims as of Transition	Number of Open Claims as of 11/30/2017	Difference
Healthcare Industry Trust of New York (HITNY)	02/01/2008	1,651	0*	(1,651)
Healthcare Providers Self Insurance Trust (HCP)	10/12/2009	1,168	0*	(1,168)
Manufacturing Industry WC Insurance Trust (NYMIT)	03/31/2006	149	0*	(149)
New York Healthcare Facilities WC Trust (HCF)	07/31/2006	294	0*	(294)
Provider Agency Trust for Human Services (PATH)	03/01/2006	338	0*	(338)
Transportation Industry WC Trust (TRANSPORTATION)	09/08/2008	604	0*	(604)
Auto Service and Repair Self Insurance Trust (AUTO)	10/15/2010	21	0*	(21)
Elite Contractors Trust of New York (ELITE)	04/01/2010	501	0*	(501)
Manufacturing Self Insurance Trust (MSIT)	06/01/2007	256	0*	(256)
Wholesale and Retail WC Trust of New York (WRWCT)	08/11/2008	390	0*	(390)

Builders Self Insurance Trust (BUILDERS)	05/01/2009	63	0*	(63)
Trade Industry WC Trust for Manufacturers (TRADE)	05/16/2008	182	0*	(182)
Real Estate Management Trust of New York (REMTNY)	07/07/2008	57	0*	(57)
New York State Cemeteries Trust (NYSCT)	07/07/2008	24	0*	(24)
Public Entity Trust of New York (PETNY)	01/15/2008	116	0*	(116)
Retail and Wholesale Industry WC Self Insurance Trust (RWWCT)	10/15/2008	29	0*	(29)
Selective Safety Trust (SELECTIVE)	03/18/2011	92	0*	(92)
Long Term Care Risk Management Group (LONG TERM CARE)	04/14/2011	263	0*	(263)
OHI Workers' Compensation Self-Insurance Trust (OHI)	07/01/2011	38	0*	(38)
Community Residence Insurance Savings Plan Self-Insurance Trust for Workers Compensation (CRISP)	08/08/2011	574	0*	(574)
Team Transportation Workers' Comp Trust (TEAM)	02/01/2012	193	0*	(193)
New York McDonalds Operators' Workers' Compensation Trust (McDONALDS)	07/15/2011	48	0*	(48)
Mercantile Self Insurance Trust	06/1/2012	95	0*	(95)
Preferred Manufacturers Insurance Trust Fund	09/1/2009	110	0*	(110)
Empire State Transportation WC Trust (EMPIRE)	01/01/2012	464	182	(282)
Empire State Towing and Recovery Association Self-Insurance Trust (ESTRA)	08/31/2015	33	21	(12)
<b>Total of All Group Self Insurance Trusts (GSIT)</b>		<b>7,753</b>	<b>203</b>	<b>(7,550)</b>
*The Claims Liability has been transferred via an Assumption Liability Policy.				

### C. Qualified Non-Municipal Self-Insurer Groups

1. Pursuant to Chapter 57 of Laws of 2011, only certain group trusts were allowed to provide coverage effective January 1, 2012. As a result, each self-insured group must post an annual security deposit as calculated by the Board. The following trusts have posted the requisite security for the period beginning November 1, 2017:

Trust Name
Electrical Employers Self-Insurance Safety Plan
New York College & University Risk Management Group
New York Lumbermen's Insurance Trust Fund

2. There are an additional 28 inactive trusts as of December 31, 2017. Groups have been issued guidelines on successfully managing their groups' obligations in run off. A significant component of this is ensuring sufficient cash is available to pay outstanding claims obligations. Specifically, groups that have 18 months of cash or less are required to levy an assessment to their members. Groups that fail to maintain cash in excess of 9 months of payouts will be transitioned to the Board for liquidation. At this time, there is 1 trust that has between 6 and 18 months of cash. The Board continues to work with the trusts to ensure amounts are levied against their former members. To the extent such levies are successful, the Board will allow a trust to continue to administer its own run off. In addition, there are 8 groups with cash balances sufficient to cover 18 to 36 months of claims and another 19 groups whose cash is sufficient for 36 months or more. It is

important to note, however, that the inability of these groups to maintain successful cash balances may result in the number of insolvent trusts increasing.

#### **D. Current NYS Workers Compensation Board Efforts to Extinguish Outstanding Liabilities**

One of the primary objectives of the Board's Litigation Division is to facilitate the extinguishment of the liabilities of insolvent GSITs. The Litigation Division employs a variety of methods to accomplish this goal, including: 1) collection of funds from the former employer members of the insolvent GSIT; 2) recoupment of damages from the former management of the insolvent GSIT; and 3) transfer of the liabilities to a commercial insurer by way of an ALP.

#### **COLLECTIONS FROM MEMBERS**

There are number of different avenues by which the Board seeks to collect funds from the former employer members of insolvent GSITs. Some employer members of insolvent GSITs have acknowledged their liabilities. For those employers that refuse to acknowledge any liability in connection with their participation in a GSIT, the Board employs a variety of enforcement mechanisms, including: 1) filing default judgments<sup>1</sup>, restraining notices and information subpoenas; 2) the issuance of stop work orders; and 3) the commencement of a civil collection action. With respect to judgments and judgment enforcement, the Board has obtained approximately \$8.4 million in contractual recoveries. Additional judgments, information subpoenas, and restraining notices may be filed against any employer who refuses to enter into a repayment arrangement. With respect to stop work orders, five have been issued, resulting in the recovery of approximately \$332,000.

For those employers that are in agreement with the Board's assessment of their pro rata share of the liabilities, the Board initially offers two types of agreements. For those employers that are in complete agreement, the Board enters into a Deficit Assessment Contractual Agreement (DACA) where the employer agrees to repay its pro rata share of the deficit over a specific time period. For those employers that acknowledge some amount of liability in connection with their participation in a GSIT but dispute the amount alleged owed by the Board, the Board enters into an interim repayment agreement (MOU) with those employers. The employers participating in the MOU collectively pay sufficient funds to meet the insolvent GSIT's claims liability during the period of the MOU in exchange for the opportunity to engage in informal discovery relative to the accuracy of the Board's deficit

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1. By decision rendered on April 30, 2012, in Riccelli Enterprises Inc. et al. v. State of New York Workers' Compensation Board et al. (Onondaga County, Index No. 10-6901) (Riccelli), a court preliminarily enjoined the Board from filing proposed judgments and taking any other enforcement action with respect to the plaintiffs in that case. By decision dated May 5, 2015, Onondaga County Supreme Court granted plaintiffs motion for summary judgment on the issue of an alleged violation of WCL §50(3-a)(7)(b) and further invalidated all of the Board's assessments levied on the Riccelli Plaintiffs. Moreover, as a result of a decision rendered on April 30, 2015, which consolidated Riccelli and the Board's collection action involving TIWCT, all assessments in TIWCT have been invalidated by implication. On July 7, 2015, the Board moved to renew its cross motion for summary judgment based upon clarifying legislation with respect to WCL §50(3-a)(7)(b) that was enacted on July 2, 2015. By decision rendered on March 31, 2016, Onondaga County Supreme Court denied the Board's motion to renew and the Board has appealed. The appeal is fully submitted and has been argued but a decision has been stayed at the request of the parties as they discuss settlement of the action and the underlying liability. In the interim, and absent settlement, TIWCT collection activity will continue to be negatively affected and there is the possibility that the Board's collection activity in other insolvent GSITs could also be negatively affected.

calculations, with each party preserving all of their rights. Finally, where the Board is in possession of sufficient information, the Board will issue a final settlement offer. In light of the bonding authority discussed below, the Board is now able to issue settlement offers to any individual employer(s) that wishes to settle its liability associated with participation in the GSIT for its pro rata allocation of the GSITs deficit. Upon completion of its repayment obligations, such settling member is provided a full and complete release from its liability associated with participation in the GSIT. To date, the Board has issued final settlement offers in twenty-five GSITs and has entered into settlements with approximately two thousand nine hundred members.

To date, the approximate cash and contracted recoveries from members of insolvent GSITs are as follows:

HITNY:	\$168,080,000
HCP:	\$ 88,252,000
NYMIT:	\$ 7,852,000
HCF:	\$ 33,116,000
PATH:	\$ 20,196,000
TIWCT:	\$ 19,216,000
MSIT:	\$ 21,807,000
ELITE:	\$ 26,951,000
WRWCT:	\$ 28,868,000
ASR:	\$ 2,185,000
BUILDERS:	\$ 7,690,000
TRADE:	\$ 9,905,000
REMTNY:	\$ 3,303,000
PETNY:	\$ 6,144,000
RWWCT:	\$ 5,584,000
SELECTIVE:	\$ 4,170,000
NYSCT:	\$ 2,033,000
PREFERRED:	\$ 8,139,000
LTC:	\$ 13,996,000
MCDONALDS:	\$ 1,945,000
OHI:	\$ 4,502,000
MERC	\$ 8,313,000
CRISP:	\$ 51,390,000
TEAM:	\$ 13,024,000
<b>ALP Subtotal:</b>	<b>\$556,661,000</b>
EST:	\$ 28,911,000
<b>Grand Total</b>	<b>\$585,572,000</b>



Finally, to date, the Board has commenced collection actions against the members of insolvent GSITs who have refused the Board's settlement offers. A summary of the collection actions is as follows:

	<b>GSIT(S)</b>	<b>CAPTION</b>	<b>Number of Defendants</b>	<b>Damages Sought</b>	<b>Status</b>
1	HITNY	<p>WCB v. A.A.A. Ambulette Service, Inc. et al.</p> <p>WCB v. Any Time Home Care Inc. et al.</p> <p>WCB v. New Sans Souci Nursing Home, LLC, et al.</p>	203	\$134,800,000	Judgments have been entered in the first and second HITNY actions against the defaulting defendants. In the first action, WCB was awarded summary judgment on liability and subsequently has reached a settlement with all remaining defendants. In the second action, the WCB received a favorable ruling on a motion to dismiss which was affirmed on appeal. The WCB is currently engaged in discovery. Only one defendant remains in the third action. WCB is actively engaged in settlement efforts with the remaining defendants in the second and third actions.



2	WRWCT	<p>WCB v. 1&amp;3 On Fifth Corp. et al.</p> <p>WCB v. 208 Braco Food Corp. et al.</p>	375	\$33,800,000	<p>Motions for default judgment have been granted in both actions and judgments have been entered against the defaulting defendants. WCB's motion seeking partial summary judgment on the issue of liability against the non-settling defendants in the first action was granted and defendants failed to perfect their appeal within the statutory timeframe. WCB is currently engaged in discovery in both actions.</p>
3	TRADE	<p>WCB v. A&amp;L Sheet Metal Fabrications Corp., et al.</p> <p>WCB v. Armstrong Brands, Inc. et al.</p>	85	\$17,900,000	<p>Motions for default judgment have been granted in both actions and judgments have been entered against the defaulting defendants. WCB has engaged in discovery with the litigating defendants. WCB is engaged in settlement efforts with the remaining defendants in both actions.</p>
4	REAL ESTATE	<p>WCB v. 10 Ellicott Square et al.</p> <p>WCB v. Cavco Services, Inc. et al.</p>	257	\$3,800,000	<p>Motion for default judgment has been granted in both actions and judgments have been entered against the defaulting defendants. All defendants in the second action have settled. The WCB also made a motion for partial summary judgment on the issue of liability in the first action, which was recently granted. WCB is engaged in discovery.</p>

5	RETAIL	WCB v. 524 Cayuga St. Food Stores, Inc. et al.	56	\$4,800,000	Motion for default judgment has been granted and judgments have been entered against the defaulting defendants. Pending confirmation, all remaining viable defendants have settled.
6	NYSCT	WCB v. Chestnut Hill Cemetery Association, et al.	30	\$2,137,000	The WCB has settled with all of the defendants that it deems viable and the action has been formally discontinued by the Court.
7	TIWCT	WCB v. A. Morrison Trucking, Inc.	625	\$68,108,000	Motion for default judgment has been filed and is currently pending with the Court. The member action has also been consolidated with the Riccelli Article 78 matter and venue has been transferred to Onondaga County.
8	BUILDERS	WCB v. Battista Construction, Inc. et al.	213	\$11,979,000	Motion for default judgment has been granted and judgments have been entered against the defaulting defendants. WCB has engaged in discovery with the remaining defendants.
9	PREFERRED	WCB v. Advanced Turnkey Systems, Inc.	125	\$9,946,000	Motion for default judgment has been granted and judgments have been entered against the defaulting defendants. All viable defendants have either settled or defaulted.
10	HCPSIT	WCB v. A&T Healthcare, Inc.  WCB v. Barksdale Management Corp. et al.	70	\$132,500,000	Motion for default judgment has been granted in both the actions and judgments have been entered against the defaulting defendants. WCB is engaged in discovery with the remaining defendants in the first action. WCB is also actively

					engaged in settlement efforts with the remaining defendants in both actions.
11	ELITE	WCB v. 21 <sup>st</sup> Century Construction Corp. et al.	2322	\$57,634,038	Motion for default judgment has been granted and judgments have been entered against the defaulting defendants. WCB' also made a motion for partial summary judgment on the issue of liability which was recently granted. WCB is engaged in discovery.
12	NYMIT	WCB v. Ace Canvas & Tent Corp. et al.	14	\$5,406,008	The WCB was successful in its motion for summary judgment on liability and all remaining litigating defendants have settled.
13	ASR	WCB v. 10473 Enterprises, Inc.  WCB v. Brian Horn's Auto Repair, Inc. et al.	314	\$3,835,536	Motions for default judgment have been granted in the both actions and judgments have been entered against the defaulting defendants. WCB has engaged in discovery against the litigating defendants.
14	OHI	WCB v. A.S. Crisafulli Plumbing and Heating, Inc.  WCB v. Crown A/C Heat & Power Corp.	57	\$6,298,812	WCB's motions for default judgment has been granted in the first action and is currently pending in the second action. All remaining solvent defendants in both actions have either defaulted or settled.

15	PATH	<p>WCB v. Baden Street Settlement of Rochester, Inc. et al.</p> <p>WCB v. Armstrong Senior Living LLC</p>	21	\$6,210,662	WCB has substituted as counsel of record in the first action. All defendants in the second action have either appeared or settled. WCB has engaged in some discovery with the litigating defendants and is pursuing settlement efforts.
16	CRISP	<p>WCB v. A Program Planned for Life Enrichment Housing Corp., et al.</p> <p>WCB v. Mary Alfano, et al.</p>	221	\$56,140,985	Motion for default judgment has been granted in both the actions and judgments have been entered against the defaulting defendants. WCB will prosecute the litigation against the appearing defendants. There is presently no discovery schedule in place in either action.
17	EST	<p>WCB v. 1<sup>st</sup> Choice Ambulette Service, LLC, et al.</p> <p>WCB v. Able Medical Transportation, Inc., et al.</p> <p>WCB v. Advance Transit Bus Co., Inc., et al.</p>	449	\$46,933,450	WCB's motion for default judgment has been granted in both the first and second actions. All defendants have appeared in the third action. There is presently no discovery schedule in place in any of the three actions.

18	SELECTIVE	<p>WCB v. 158 King Street Associates, LLC, et al.</p> <p>WCB v. American Bulb Corporation, et al.</p>	77	\$9,059,442	WCB has made a motion for default judgments in both actions. The motion has been granted in the first action and is currently pending with the Court in the second action. There is presently no discovery schedule in place in either action.
19	LTRMG	<p>WCB v. Brae Loch Manor, Inc., et al</p> <p>WCB v. Blossom Health Care Center, Inc., et al.</p> <p>WCB v. Episcopal Church Home and Affiliates Inc., et al.</p>	21	\$21,011,959	WCB has made a motion for default judgment in the first action which is currently pending with the Court. All but one defendant has either settled or appeared in the second action. WCB also recently initiated the third action against those members that previously entered into a tolling agreement but ultimately did not settle. There is presently no discovery schedule in place in any of the actions.
20	MERCANTILE	WCB v. 1654 Metropolitan Food Corp. et al.	194	\$22,182,504	The Board initiated the instant action in June 2017. WCB will make a motion for default judgment against any defaulting defendant(s) at the appropriate time. WCB has also opposed a motion to dismiss filed by two defendants, which is currently pending with the Court. There is presently no discovery schedule in place.
21	Team Transportation	<p>WCB v. A&amp;D Transport Service Inc., et al.</p> <p>WCB v. Almeida Oil Co. Inc., et al.</p>	317	\$22,664,156	WCB recently filed suit and will make a motion for default judgment in both actions as needed at the appropriate time. There is presently no discovery schedule in place in either action.



### THIRD PARTY ACTIONS

Upon the Board's assumption of the assets and liabilities of a GSIT, the Board commissions a forensic accounting of the GSIT. In connection therewith a performance and operational report is generated which identifies the causes, if any, that contributed to the insolvency of the GSIT. In the event the performance and operational report identifies actionable conduct, the Board will commence a civil action to recoup damages against such parties. Any funds received from such actions will be used to extinguish the liabilities of the respective GSIT. To date the Board has commenced thirteen such actions. The affected GSIT, the defendants, damages sought, recoveries obtained to date and status is reflected in the chart below.

	<b>GSIT(S)</b>	<b>DEFENDANTS</b>	<b>DAMAGES SOUGHT</b>	<b>STATUS</b>
1	HCF	Group Administrator (Hamilton Wharton Group and Walter Taylor)	\$33 Million	Discovery. Action has been consolidated with the HCF action referenced immediately below. Discovery ongoing with remaining non-settling defendant (Group administrator).
2	HCF	Accountant (Berenson and Co, James McGarrity, and Lorette Belgrier and L. Belgraiier CPA, P.C.), Attorney (Steven Glaser) and Trustees	\$33 Million	Action has been consolidated with the HCF action referenced immediately above. Settlements with Accountant, Attorney and Trustees approved by Court.
3	HITNY, ELITE,WRWCT, TIWCT, TRADE, CEMETERIES, PETNY, REMTNY	Actuary (SGRisk, LLC) and Accountant (UHY, LLP)	\$557 Million	Settlement in principle reached with actuary and WCB has filed an application for court approval of the settlement. WCB permitted to file and serve an Amended Complaint. Discovery is ongoing against Accountant. Action is consolidated with item seven (7) below.
4	RETAIL, NYMIT, and PATH	Group Administrator and affiliates (Consolidated Risk Services, Inc. et al); Trust Broker (Hickey Finn & Co); Actuary (Regnier Consulting Group); Trustees	\$42 Million	Settlement reached with Trustees, Trust Broker and Actuary subject to Court approval. WCB will file an application for court approval of the settlements at the appropriate time. Discovery ongoing with remaining defendant.
5	MSIT	Group Administrator and affiliates (New York Compensation Managers, Inc. et al); Trustees	\$21 Million	Settlement reached with all operative defendants. Remaining issue of allocation of settlement proceeds with



				Trust member who also sued defendants.
6	HCP	Group Administrator and affiliates (Program Risk Management et al) Actuary (SGRisk); Accountants (DeChants Fugelin and Johnson); Trustees	\$188 Million	Court approved settlements reached with all defendants except Trust counsel. Remaining issue of allocation of settlement proceeds with Trust members who also sued settling defendants. WCB is engaged in discovery with Trust counsel.
7	HITNY, ELITE,WRWCT, TIWCT, TRADE, CEMETERIES, PETNY, REMTNY	Group Administrator and affiliates (Compensation Risk Managers, LLC, et al) and Trustees (Matter has been coordinated with other suits against Compensation Risk Managers, LLC arising out of its management of GSITs)	\$472 Million	WCB secured bankruptcy distribution from bankrupt administrator (and its affiliates). Settlement in principle reached with individual defendants affiliated with bankrupt administrator (and its affiliates). WCB has filed an application for court approval of the settlements with Group Administrator and Actuary which is currently pending with the Court. WCB in mediation with defendant Trustees.
8	BUILDERS	Group Administrator (Marsh U.S.A., Inc.); Trustees	\$20 Million	WCB has reached a settlement in principle with all remaining defendants and is in the process of finalizing the settlement materials. WCB will file an application for court approval of the settlements at the appropriate time.
9	ASR	Group Administrator and affiliates(New York Compensation Managers, Inc. et al.) and Trustees	Approximately \$4 million	WCB has reached a settlement in principle with all defendants. WCB will file an application for court approval of settlements at the appropriate time.
10	OHI	Group Administrator (Cody Management, Inc.), Accountant (Fuller & LaFliura); Trustees	Approximately \$8 million	WCB has reached a settlement in principle with all defendants. WCB will file an application for court approval of the settlements at the appropriate time.
11	CRISP	Group Administrator and affiliates (Program Risk Management et al) Third Party Administrator and affiliates (PMA Management Corp et al RM), Trust Marketing Agent	Approximately \$60 million	Settlement in principle with all defendants except Trustees, WCB will file a motion for court approval of the settlements at the appropriate time.

		and affiliates (MP Agency et al), Actuary (SGRisk); Accountant and affiliates (DeChants, Fugelin and Johnson et al); Auditors and affiliates (Towers Watson Risk Consulting et al) Trustees		WCB is mediating with Trustees; Discovery is ongoing.
12	TEAM	Group Administrator (Program Risk Management, Inc.) and affiliates (PRM Claims Services) and officers, Accountants (Regnier Consulting Group, Inc., Dorfman-Robbie Certified Public Accountants, P.C. and Bonadio & Co. LLP); Trustees	Approximately \$32 million	Settlement in principal reached with all defendants. WCB will file a motion for court approval of the settlements at the appropriate time.
13	LTC	Group Administrator (and affiliates) and Trustees	Approximately \$21 million	Action recently initiated; service on the defendants has been completed and issue is joined.

### ALPs

Part R of Chapter 56 of the Laws of 2010 allows self-insurers to transfer future and contingent claim liabilities by executing an assumption of workers' compensation liability insurance policy (ALP). As of December 1, 2013 (prior to the implementation of the bonding program provided for by the Business Relief Act) the Board effectuated an ALP for PATH, NYMIT, HCF and TIWCT, thereby effectively capping all claims liabilities. In addition, ALPs have been executed by seven inactive self-insurers.

As alluded to above, Legislation passed as part of the 2013-14 New York State Executive Budget (the Business Relief Act) established a \$900 million bonding program to assist in the resolution of insolvent group self-insured trusts liabilities. The bill created statutory authority to issue bonds backed by assessments levied pursuant to the WCL to provide financing for the purchase of ALPs for unmet self-insurance obligations including the claims liabilities of the insolvent GSITs being administered by the Board. This bonding ability has three significant, and very positive, effects on the Board's intended course of conduct with respect to the settlements with members of insolvent GSITs. First, this bonding, and more specifically the concomitant ability of the Board itself to procure an ALP, allows the Board to eliminate the risk of future adverse development of the underlying workers' compensation claims liability. Accordingly, the Board will no longer employ the "Tender Offer" model which required a minimum member participation level (equated to the cost of the ALP and certain other ancillary costs) before the settlement became binding on both the Board and the settling members. Rather, the Board's ability to itself purchase an ALP policy for an insolvent GSIT will permit the Board to enter into a settlement with any member that is so desirous, regardless of any other member's decision to settle. Each member that executes a settlement agreement will be provided with a full and final release from the Board upon receipt of the

member's final payment(s). With the bonding in place, the Board is in position to procure multiple ALP quotes since it will be able to fund the ALP directly through the bonding process, rather than relying on the receipt of payments from the members of insolvent GSITs. Second, the Board will reduce each settling member's amount owed, by a pro rata share of estimated recoveries from the Board's third party litigation referenced above, thereby reducing the amount on money sought from settling members. Third, as a result of the extended period in which to repay the bonds, the Board is now able to provide extended repayment terms of up to fifteen years and very favorable interest rates. Bonds were issued in December 2013, and ALPs for the following trusts have been executed:

Healthcare Industry Trust of New York (HITNY)  
Health Care Providers Self Insurance Trust (HCP)  
Elite Contractors of New York (ELITE)  
Manufacturing Self-Insurance Trust (MSIT)  
Wholesale and Retail WC Trust of New York (WRWCT)  
Auto Service and Repair Self Insurance Trust (AUTO)  
Mercantile Self-Insurance Trust (MERC)  
Builders Self Insurance Trust (BUILDERS)  
Trade Industry WC Trust for Manufacturers (TRADE)  
Real Estate Management Trust of New York (REMTNY)  
Public Entity Trust of New York (PETNY)  
Retail and Wholesale industry WC Self Insurance Trust (RWWCT)  
Selective Safety Trust (SELECTIVE)  
New York State Cemeteries Trust (NYSCT)  
Long Term Care Risk Management Group (LTC)  
Preferred Manufacturers Insurance Trust (PREFERRED)  
Community Residence Insurance Savings Plan SI Trust (CRISP)  
OHI Workers' Compensation Trust (OHI)  
New York McDonalds Operators' Workers' Compensation Trust (MCDONALDS)  
Team Transportation Workers' Compensation Trust (TEAM)

## **II. Status of Individual Self-Insured Employers Requisite Security Deposit Posted**

Currently the NYS Workers' Compensation Board has 841 active individual (large corporate) self-insured employers. This number consists of 117 parent companies (accounts) and 724 subsidiary companies which are self-insured on a consolidated basis.

A listing of the 117 self-insured accounts is attached herein:

Self-Insured Employers

ABA Transportation Holding Co. Inc.  
ABF Freight System, Inc.  
Arnot Ogden Medical Center  
Ascension Health Alliance  
Aspire of Western New York, Inc.  
Ball Corporation  
BJ's Wholesale Club, Inc.  
Bon Secours Charity Health System, Inc.  
Bon Secours Health System, Inc.  
Briggs & Stratton Power Products Group, LLC  
Brookdale Hospital Medical Center  
Brooklyn Bureau of Community Service  
Bush Industries, Inc.  
Carillon Nursing and Rehabilitation Center, LLC  
Cayuga Medical Center at Ithaca, Inc.  
CBS Corporation  
CH Energy Group, Inc.  
Champlain Valley Physicians Hospital Medical Center  
Child and Family Services of Erie County, Inc.  
Columbia University in the City of New York, Trustees of  
Consolidated Edison Company of New York, Inc.  
Cornell University  
Costco Wholesale Corporation  
CRH Americas, Inc. FKA Oldcastle, Inc.  
Crouse Health Hospital, Inc.  
Cummins Inc.  
Delhaize America, LLC  
DePaul Group, Inc.  
Dolgencorp of New York, Inc.  
E. I. du Pont de Nemours and Company  
Eastman Kodak Company (NJ)  
Entergy Nuclear Operations, Inc.  
Erie County Medical Center Corporation  
Federal Express Corporation  
FedEx Freight, Inc.  
FedEx Ground Package System, Inc.  
Finger Lakes Regional Health System, Inc.  
Ford Motor Company  
Fulton Boiler Works, Inc.

Fulton Group N.A., Inc.  
General Motors, LLC  
Gleason Works, The  
Golub Corporation  
Harden Furniture, Inc.  
Highland Hospital of Rochester  
Hillside Family of Agencies  
Kistner Concrete Products Inc.  
Klein Cutlery, LLC  
Krasdale Foods, Inc.  
L Brands, Inc.  
L. & J.G. Stickley, Inc.  
Leprino Foods Company  
Lifetime HealthCare, Inc.  
Lowe's Home Centers, LLC  
Macy's, Inc.  
Marriott International, Inc.  
McWane Inc. dba Kennedy Valve Co  
Memorial Sloan-Kettering Cancer Center  
Metropolitan Museum of Art  
Mid-Hudson Valley Staffco, LLC  
National Fuel Gas Company  
National Grid USA  
New Era Cap Co., Inc.  
New York Black Car Operators Injury Comp. Fund Inc.  
New York University (2015)  
Nordstrom, Inc.  
NYSARC, Inc. Chautauqua County Chapter dba The Resource Center  
NYU Hospitals Center  
Orange and Rockland Utilities, Inc.  
Oswego Hospital  
Our Lady of Lourdes Memorial Hospital  
Our Lady of Victory Homes of Charity  
Owens Corning  
Owens-Illinois Inc. (1987)  
Parker Hannifin Corporation  
People, Inc.  
Queens Borough Public Library  
Quick Chek Corporation

Raymond Corporation  
Rochester Institute of Technology  
Rockefeller University  
Roman Catholic Diocese of Albany, NY  
Roman Catholic Diocese of Buffalo  
Roman Catholic Diocese of Ogdensburg  
Roman Catholic Diocese of Syracuse  
Rosina Food Products, Inc.  
Roswell Park Cancer Institute Corporation  
RU System, Inc. d/b/a Rochester Regional Health System  
Ryder Truck Rental, Inc.  
Saint-Gobain Abrasives, Inc.  
Samaritan Medical Center  
Samaritan-Keep Nursing Home, Inc.  
Sherwin-Williams Company  
Shop Vac Corporation  
SKF USA Inc.  
St. Barnabas Community Enterprises, Inc.  
St. Joseph's Hospital  
St. Mary's Healthcare  
Stanley Black & Decker, Inc.  
Starbucks Corporation  
Stewart's Shops Corp.  
Swift Transportation Co., LLC  
Syracuse University  
Tessy Plastics Corp.  
Trinity Health Corporation  
Unifrax I LLC  
United Airlines Inc.  
University of Rochester  
Upstate Niagara Cooperative Inc.  
Viacom Inc.  
Visiting Nurse Service of New York  
Wal-Mart Associates, Inc.  
Washington Mills Electro Minerals Corporation  
Wegmans Food Markets, Inc.  
Wendy's International, LLC  
White Castle System, Inc.  
Yeshiva University

