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Workers' Compensation Full Board Meeting Minutes

Date: Tuesday; May 17, 2022
Location: 328 State Street, Schenectady, NY
Room 329
WebEx/Live Broadcast

Time: 10:00 a.m.

MEMBERS OF THE BOARD

Clarissa M. Rodriguez, Chair
Freida Foster, Vice Chair
Ellen O. Paprocki
Mark Higgins
Loren Lobban, Esq.
Samuel G. Williams
Linda Hull
Fredrick M. Ausili, Esq.
Steven A. Crain, Esq.
Mark R. Stasko
Arelis Tavares
Martin M. Dilan
Pamela Caggianelli

OFFICE OF THE SECRETARY

Virginia Cawthon

GENERAL COUNSEL

David Wertheim, Esq.

Also present: Hanna Reyes, Assistant Director of
Intergovernmental and Regulatory Affairs

1 CLARISSA RODRIGUEZ: Okay. Good morning,
2 everyone. Thank you for joining us. I'm Clarissa
3 Rodriguez, Chair of the New York State Workers'
4 Compensation Board. Today's meeting is being
5 conducted remotely throughout various locations in
6 New York State as well as being webcast live for
7 members of the public. Please note for the record
8 that Board Secretary, Kim McCarroll, is unable to
9 attend today's meeting. Virginia Cawthon from the
10 Office of the Secretary will assume the Secretary's
11 responsibilities for this meeting.

12 Board Members, also be reminded to please state
13 your full name each time you speak. Now, I have the
14 honor of calling the 1,010th meeting of the Full Board
15 to order. Mrs. Cawthon, will you please call
16 attendance?

17 VIRGINIA CAWTHON: Vice Chair Foster.

18 FREIDA FOSTER: Here.

19 VIRGINIA CAWTHON: Board Member Paprocki.

20 ELLEN PAPROCKI: Here.

21 VIRGINIA CAWTHON: Board Member Higgins.

22 MARK HIGGINS: Here.

23 VIRGINIA CAWTHON: Board Member Lobban.

24 LOREN LOBBAN: Here.

1 VIRGINIA CAWTHON: Board Member Williams.
2 SAMUEL WILLIAMS: Here.
3 VIRGINIA CAWTHON: Board Member Hull.
4 LINDA HULL: Here.
5 VIRGINIA CAWTHON: Board Member Ausili.
6 FREDRICK AUSILI: Here.
7 VIRGINIA CAWTHON: Board Member Crain.
8 STEVEN CRAIN: Here.
9 VIRGINIA CAWTHON: Board Member Stasko.
10 MARK STASKO: Here.
11 VIRGINIA CAWTHON: Board Member Stasko.
12 MARK STASKO: Here.
13 STEVEN CRAIN: I heard him.
14 VIRGINIA CAWTHON: Board Member Ta --
15 Tavares.
16 ARELIS TAVARES: Here.
17 VIRGINIA CAWTHON: Board Member Caggianelli.
18 PAMELA CAGGIANELLI: Here.
19 VIRGINIA CAWTHON: Board Member Dilan.
20 MARTIN DILAN: Here.
21 VIRGINIA CAWTHON: Madam Chair, all members
22 are present.
23 CLARISSA RODRIGUEZ: Thank you very much,
24 Mrs. Cawthon. Okay. Now, Agenda Item 1, approval of

1 the April 19th, 2022 meeting minutes. Now, Board
2 Members, you have all received a copy of the April 19,
3 2022 meeting minutes for your review. Are there any
4 questions or need for a discussion? Seeing and
5 hearing none, is there a motion to approve the meeting
6 minutes?

7 PAMELA CAGGIANELLI: Yes, Madam Chair. This
8 is Board Member Pamela Caggianelli, and I move to
9 approve the April 19th, 2022 meeting minutes.

10 CLARISSA RODRIGUEZ: Thank you, Board Member
11 Caggianelli. Is there a second?

12 ELLEN PAPROCKI: Yes, Madam Chair. This is
13 Board Member Ellen Paprocki, and I second the motion.

14 CLARISSA RODRIGUEZ: Thank you, Board Member
15 Paprocki. Is there any opposition to the motion?
16 Seeing and hearing none, Board Members, all in favor,
17 please say aye.

18 ALL: Aye.

19 CLARISSA RODRIGUEZ: All opposed? I am also
20 a yes. That motion is passed. Thank you. Agenda
21 Item 2, Office of General Counsel's Departmental
22 Report. Now, Acting Executive Director and General
23 Counsel, David Wertheim, will now present the
24 Statistical and Informational Report for April.

1 Welcome, David.

2 DAVID WERTHEIM: Thank you, and good morning
3 Chair, Vice Chair, and Board Members. Here is a
4 statistical analysis for April 2022 of the work flow
5 of the three divisions that resolve issues of the
6 Board. First, in Adjudication, there were 19,979
7 hearings conducted, 11,046 cases fully resolved at the
8 hearing, 312 Reserve Decisions were issued. There
9 were 2,031 finalized Waiver Agreements, with 98
10 percent via the hearing process.

11 In the Administrative Review Division regarding
12 Board Panel Decisions, there were 1,082 Applications
13 for Review received, 845 processed, leaving 4,264
14 pending applications at the end of month. And in
15 Legal Affairs, there were 125 Applications for Full
16 Board Review received, 115 processed, leaving an
17 inventory at the end of month of 222 cases. That
18 concludes the Informational and Statistical Report.
19 Of course I would take any questions.

20 CLARISSA RODRIGUEZ: Okay. Thank you,
21 David. Board Members, are there any questions or need
22 for discussion? Okay, seeing and hearing none, may I
23 please have a motion to accept the Statistical and
24 Informational Report of the Office of General Counsel?

1 PAMELA CAGGIANELLI: Yes, Madam Chair. This
2 is Board Member Pamela Caggianelli. I move to accept
3 the Statistical and Informational Report for the
4 Office of General Counsel as stated by Acting
5 Executive Director and General Counsel David Wertheim.

6 CLARISSA RODRIGUEZ: Thank you, Board Member
7 Caggianelli. Is there a second?

8 ELLEN PAPROCKI: Yes, Madam Chair. This is
9 Board Member Ellen Paprocki, and I second that motion.

10 CLARISSA RODRIGUEZ: Thank you, Board Member
11 Paprocki. Is there any opposition to the motion?
12 Seeing and hearing none, all in favor, please say aye.

13 ALL: Aye.

14 CLARISSA RODRIGUEZ: All opposed? I am also
15 a yes. That motion is passed. Thank you, Board
16 Members. Agenda Item 3, License Applications.
17 Assistant Director of Regulatory and Intergovernmental
18 Affairs, Hannah Reyes, will now present the Licensing
19 Applications.

20 HANNA REYES: Thank you so much. Good
21 morning, Chair Rodriguez, Vice Chair Foster.

22 CLARISSA RODRIGUEZ: Good morning.

23 HANNA REYES: Board Members, and colleagues.
24 You have before you the recommendations from the

1 Assigned Board Panel regarding the Licensing
2 Applications listed in Part 3 of today's agenda.
3 Section 24-a, Terri Howland, three-year renewal.
4 Section 50(3-b), Compcare Services, LLC, one-year
5 renewal. PERMA, Inc., two-year initial license.
6 Section 50(3-d), CorVel Enterprise Comp., Inc.,
7 three-year renewal. I present these recommendations
8 to the Board for your consideration.

9 CLARISSA RODRIGUEZ: Thank you very much,
10 Hannah. Are there any questions or need for
11 discussion? Seeing and hearing none, may I please
12 have a motion to accept the recommendations of the
13 Board Panels as presented and as identified as Items 3
14 on the agenda?

15 PAMELA CAGGIANELLI: Yes, Madam Chair. This
16 is Board Member Pamela Caggianelli. I move to accept
17 the recommendations of the Panels as presented and as
18 identified in Items 3 on the agenda.

19 CLARISSA RODRIGUEZ: Thank you, Board Member
20 Caggianelli. Now, is there a second?

21 ELLEN PAPROCKI: Yes, Madam Chair. This is
22 Board Member Ellen Paprocki, and I second the motion.

23 CLARISSA RODRIGUEZ: Thank you, Board Member
24 Paprocki. Is there any opposition to the motion?

1 Okay, hearing none, all in favor, please say aye.

2 ALL: Aye.

3 CLARISSA RODRIGUEZ: Thank you. All
4 opposed? I am also a yes. That motion is passed.
5 Thank you, Board Members. Now, Agenda Item 4, our
6 Legal Appeals. Acting Executive Director and General
7 Counsel, David Wertheim, will now present the
8 recommendations concerning decisions by the Appellate
9 Division.

10 DAVID WERTHEIM: Thank you again, Madam
11 Chair. Since the last Board meeting nine decisions
12 have been issued by the Appellate Division, Third
13 Department with respect to workers' compensation
14 claims. These are listed as Items 4A through 4I of
15 your agenda. Of these, seven were affirmances, one
16 appeal was dismissed, and one decision was modified.
17 I note that Item 4J requires no action presently as it
18 was acted upon at the April Board meeting and
19 therefore it should be deemed removed from the agenda.
20 Office of General Counsel recommends a motion to adopt
21 the decisions of the Court in Items 4A through I as
22 the decisions of the Board and to take no additional
23 action presently on Item 4J. Thank you.

24 CLARISSA RODRIGUEZ: Okay. Thank you,

1 David. Are there any questions or need for
2 discussion? Hearing none, may I please have a motion
3 to accept the recommendations of the Office of General
4 Counsel?

5 PAMELA CAGGIANELLI: Yes, Madam Chair. This
6 is Board Member Pamela Caggianelli, and I move to
7 accept the recommendations as stated by the Executive
8 Director, the Acting Exec -- Executive Director and
9 General Counsel, David Wertheim, under the Agenda
10 Item 4.

11 CLARISSA RODRIGUEZ: Okay. Thank you, Board
12 Member Caggianelli. Is there a second?

13 ELLEN PAPROCKI: Yes, Madam Chair. This is
14 Board Member Ellen Paprocki, and I second the motion.

15 CLARISSA RODRIGUEZ: Thank you, Board Member
16 Paprocki. Is there any opposition to the motion?
17 Okay, seeing and hearing none, all in favor, please
18 say aye.

19 ALL: Aye.

20 CLARISSA RODRIGUEZ: Thank you. All
21 opposed? Hearing none, I am also a yes. That motion
22 is passed. Thank you. Agenda Item 5, Mandatory Full
23 Board Review. We'll start with Case 5A, Meter Reading
24 Holdings, LLC, Case Number G1991412. Now, is there a

1 motion with respect to 5A on the agenda?

2 FREDRICK AUSILI: Yes, Madam Chair. This is
3 Board Member Fredrick Ausili, and I move that neither
4 the majority nor the dissenting opinions be adopted as
5 the opinion of the Full Board, but that a new decision
6 be issued finding a discretionary penalty of permanent
7 disqualification.

8 CLARISSA RODRIGUEZ: Okay. Thank you very
9 much, Board Member Ausili. Is there a second?

10 MARTIN DILAN: Yes, Madam Chair. This is
11 Board Member Martin Dilan, and I second the motion.

12 CLARISSA RODRIGUEZ: Thank you, Board Member
13 Dilan. Are there any recusals in this matter?
14 Hearing none, is there any opposition to the motion?
15 Okay, hearing none, all in favor, please say aye.

16 ALL: Aye.

17 CLARISSA RODRIGUEZ: All opposed? Hearing
18 none, I am also a yes. That motion is passed. Thank
19 you, Board Members. Now, on to Matter 5B, Twin City
20 Glass Corporation, Case Number G2197110. Is there a
21 motion with respect to 5B on the agenda?

22 ELLEN PAPROCKI: Yes, Madam Chair. This is
23 Board Member Ellen Paprocki, and I move that the
24 majority opinion be adopted as the opinion of the Full

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Board.

CLARISSA RODRIGUEZ: Thank you, Board Member Paprocki. Is there a second?

PAMELA CAGGIANELLI: Yes, Madam Chair. This is Board Member Pamela Caggianelli, and I second that motion.

CLARISSA RODRIGUEZ: Thank you, Board Member Caggianelli. Is there any opposition to the motion? Hearing none, are there any recusals from this matter? Hearing none, all in favor, please say aye.

ALL: Aye.

CLARISSA RODRIGUEZ: Thank you. All opposed? Hearing none, I am also a yes. That motion is passed. Thank you, Board Members. Under Agenda Item 6, there are no Discretionary Decisions to consider today. Now, is there any other business, Board Members? Okay, hearing none, may I please have a motion to adjourn the meeting?

PAMELA CAGGIANELLI: Yes, Madam Chair. This is Board Member Caggi -- Pamela Caggianelli, and I move to adjourn the meeting.

CLARISSA RODRIGUEZ: Thank you, Board Member Caggianelli. Is there a second?

ELLEN PAPROCKI: Yes. This is Board Member

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Ellen Paprocki, and I would second that.

CLARISSA RODRIGUEZ: Thank you, Board Member Paprocki. All in favor, please say aye.

ALL: Aye.

CLARISSA RODRIGUEZ: All opposed? Okay, hearing no opposition I am also a yes. That motion is passed. Meeting adjourned. Everyone please have a great afternoon.

(Whereupon, the meeting was adjourned.)