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Workers' Compensation Full Board Meeting Minutes

Date: Tuesday, November 16, 2021
Location: 328 State Street, Schenectady, NY
Room 329
Webex 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

SECRETARY TO THE BOARD

- Kim McCarroll

SUPERVISING ATTORNEY

- Keith Longden, Esq.

SENIOR ATTORNEY, GENERAL COUNSEL

- Eugene Martin, Esq.

1 CLARISSA RODRIGUEZ: Good morning,
2 everyone. Thank you for joining us. I am 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 New
6 York State as well as being webcast live to members of
7 the public. Board Members, please state your full
8 name each time you speak for the record.

9 Now I call the Meeting of the Full Board to
10 order. Sorry, this is the 1003?

11 KIM MCCARROLL: Four.

12 CLARISSA RODRIGUEZ: 1004, there you go. I
13 deleted it. I call the 1004 Meeting of the Full Board
14 to order. Thank you, Madam Secretary. Madam
15 Secretary, will you also call attendance?

16 KIM MCCARROLL: Yes. Vice Chair Foster.

17 FREIDA FOSTER: Here.

18 KIM MCCARROLL: Board Member Paprocki.

19 ELLEN PAPROCKI: Here.

20 KIM MCCARROLL: Board Member Higgins.

21 MARK HIGGINS: Here.

22 KIM MCCARROLL: Board Member Lobban.

23 LOREN LOBBAN: Here.

24 KIM MCCARROLL: Board Member Williams.

1 SAMUEL WILLIAMS: Here.

2 KIM MCCARROLL: Board Member (audio cut
3 out).

4 LINDA HULL: Here.

5 KIM MCCARROLL: Board (audio cut out).

6 FREDRICK AUSILI: Here.

7 KIM MCCARROLL: Board Member Crain.

8 STEVEN CRAIN: Here.

9 KIM MCCARROLL: Board Member Stasko.

10 MARK STASKO: Here.

11 KIM MCCARROLL: Board Member Tavares.

12 ARELIS TAVARES: Here.

13 KIM MCCARROLL: Board Member Caggianelli.

14 PAMELA CAGGIANELLI: Here.

15 KIM MCCARROLL: Board Member Dilan.

16 MARTIN DILAN: Here.

17 KIM MCCARROLL: Madam Chair, all members are
18 present.

19 CLARISSA RODRIGUEZ: Okay, thank you very
20 much, Madam Secretary. Agenda Item 1, approval of the
21 October 19, 2021 meeting minutes. You have all
22 received a copy of the October 19, 2021 meetings to
23 review, meeting minutes, to review. Are there any
24 questions or need for discussion? Okay, hearing none,

1 is there a motion to accept the meeting minutes?

2 ARELIS TAVARES: Yes, Madam Chair, this is
3 Board Member Tavares, and I move to approve the
4 minutes.

5 CLARISSA RODRIGUEZ: Thank you, Board
6 Member Tavares. Is there a second?

7 LINDA HULL: Yes, Madam Chair, this is Board
8 Member Linda Hull, and I second that motion.

9 CLARISSA RODRIGUEZ: (Audio cutting out) --
10 hearing none, all in favor, please say aye.

11 ALL: Aye.

12 CLARISSA RODRIGUEZ: All opposed? Hearing
13 none, I am also a yes, that motion is passed. Thank
14 you, Board Members. Agenda Item 2, Office of General
15 Counsel's Departmental Report. Supervising Attorney
16 Keith Longden will present the Statistical and
17 Informational Report for October. Welcome, Keith.

18 KEITH LONGDEN: Thank you, Madam Chair,
19 Members of the Board. The following is a statistical
20 analysis for the month of October 2021 of the work
21 flow of the three divisions of the Office of Issue
22 Resolution within the Office of General Counsel
23 responsible for deciding cases: The Adjudication
24 Division held during the month 19,824 hearings,

1 resolved 13,729 cases at hearings, issued 476 Reserve
2 Decisions, held 1,266 pre-hearing conferences, and
3 finalized 1,725 Section 32 Waiver Agreements.

4 The Administrative Review Division, during the
5 month of October, received 979 applications, processed
6 946 applications, and ended up with an end of the
7 month inventory of 3,335 cases.

8 And finally, Legal Affairs Division received
9 during the month 123 applications for a Full Board
10 Review, processed 120 applications, for an end of the
11 month inventory of 278 cases. And that concludes my
12 report.

13 CLARISSA RODRIGUEZ: Thank you, Keith. Are
14 there any questions or need for a discussion? Okay,
15 hearing none, may I please have a motion to accept the
16 report of the Office of General Counsel?

17 ARELIS TAVARES: Yes, Madam Chair, this is
18 Board Member Tavares, and I move to accept the report
19 of General Counsel.

20 CLARISSA RODRIGUEZ: Thank you, Board
21 Member Tavares. Is there a second?

22 LINDA HULL: Yes, this is Board Member Linda
23 Hull, and I second that motion.

24 CLARISSA RODRIGUEZ: Thank you, Board Member

1 Hull. Is there any opposition? Okay, hearing none,
2 all in favor, please say aye.

3 ALL: Aye.

4 CLARISSA RODRIGUEZ: All opposed? Okay,
5 hearing none, I am also a yes, that motion is passed.
6 Agenda Item 3, License Applications. Eugene Martin,
7 Senior Attorney at the Office of General Counsel, will
8 now present the Licensing Applications.

9 EUGENE MARTIN: Good morning, Chair
10 Rodriguez, Vice Chair Foster, Board Members, and
11 Colleagues. You have before you recommendations from
12 the Assigned Board Panel regarding Licensing
13 Applications listed in Part 3 of today's agenda.
14 There were no applications pursuant to Section 24-a.

15 Under Section 50(3-b), AmTrust North America,
16 Inc., three-year renewal; American Family Life
17 Assurance (inaudible, audio cutting out) New York,
18 Disability and Paid Family Leave only, initial
19 application (inaudible, audio cutting out) a one-year
20 term.

21 And under Section 50(3-d), Markel Service,
22 Incorporated, three-year renewal; Wright Risk
23 Management, LLC, three-year renewal. I present these
24 recommendations to the Board for your consideration.

1 CLARISSA RODRIGUEZ: Thank you very much,
2 Eugene. Are there any questions or need for
3 discussion? Hearing none, may I please have a motion
4 to accept the recommendations of the Panels as
5 presented by Eugene?

6 ARELIS TAVARES: Yes, Madam Chair, this is
7 Board Member Tavares, and I move to accept the
8 recommendations of the Panel.

9 CLARISSA RODRIGUEZ: Thank you, Board
10 Member Arelis (sic), is there a second?

11 LINDA HULL: Yes, this is Board Member Linda
12 Hull, and I second that motion.

13 CLARISSA RODRIGUEZ: Is there any
14 opposition to the motion? Hearing none, all in favor,
15 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. Agenda item 4, Legal Appeals. Supervising
20 Attorney Keith Longden will now present the
21 recommendations concerning decisions by the Appellate
22 Division.

23 KEITH LONGDEN: Thank you, Madam Chair. On
24 this month's agenda there is one decision from the

1 Appellate Division, Third Department, that's item 4A
2 on the agenda, and it's Matter of *Taylor vs. Buffalo*
3 *Psychiatric Center*. And it's the recommendation of
4 the Office of General Counsel that the Full Board
5 adopt the decision of the Court as a decision of the
6 Board.

7 CLARISSA RODRIGUEZ: Thank you, Keith. May
8 I have a motion to accept the recommendations of the
9 Office of General Counsel?

10 ARELIS TAVARES: Yes, Madam Chair, this is
11 Board Member Tavares, and I move to accept the
12 recommendation of General Counsel.

13 CLARISSA RODRIGUEZ: Thank you, Board
14 Member Tavares. Is there a second?

15 LINDA HULL: Yes, this is Board Member Linda
16 Hull, and I second that motion.

17 CLARISSA RODRIGUEZ: Thank you, Board
18 Member Hull. Is there any opposition? Hearing none,
19 all in favor, please say aye.

20 ALL: Aye.

21 CLARISSA RODRIGUEZ: All opposed? I am
22 also a yes, that motion is passed. Thank you. Agenda
23 Item 5, Mandatory Full Board Review. We start with
24 case 5A, *Emergency Restoration*, case number G2255171.

1 Is there a motion with respect to 5A on the agenda?

2 MARK STASKO: Yes, Madam Chair, this is
3 Board Member Mark Stasko, and I move that the opinion
4 of the Board Panel be adopted as the opinion of the
5 Full Board.

6 CLARISSA RODRIGUEZ: Thank you, Board
7 Member Stasko, is there a second?

8 STEVEN CRAIN: Yes, Madam Chair, this is
9 Board Member Steven Crain, and I second that motion.

10 CLARISSA RODRIGUEZ: Thank you, Board
11 Member Crain. Does anyone need to be recused from
12 this matter? Hearing none, is there any opposition to
13 the motion? Hearing none, all those in favor, please
14 say aye.

15 ALL: Aye.

16 CLARISSA RODRIGUEZ: All opposed? Hearing
17 none, I am also a yes, that motion is passed. Moving
18 on to 5B, *HHH Acquisition, LLC*, case number G2851720.
19 Is there a motion with respect to 5B on the agenda?

20 ELLEN PAPROCKI: Yes, Madam Chair, this is
21 Board Member Ellen Paprocki, and I move that the
22 dissenting opinion be adopted as the opinion of the
23 Full Board.

24 CLARISSA RODRIGUEZ: Thank you, Board

1 Member Paprocki. Is there a second?

2 SAMUEL WILLIAMS: Yes, Madam Chair, this is
3 Board Member Sam Williams, I second that motion.

4 CLARISSA RODRIGUEZ: Thank you, Board
5 Member Williams. Does anyone need to be recused from
6 this matter? Hearing none, is there any opposition to
7 the motion? Again hearing none, all in favor, please
8 say aye.

9 ALL: Aye.

10 CLARISSA RODRIGUEZ: All opposed? Hearing
11 none, I am also a yes, that motion is passed. Thank
12 you, Board Members. 5C, *Bestcare Management Co.,*
13 *Incorporated*, case number G2589532. Is there a motion
14 with respect to 5C on the agenda?

15 MARK HIGGINS: Yes, Madam Chair, this is
16 Board Member Mark Higgins, and I move that the
17 dissenting opinion be adopted as the opinion of the
18 Full Board.

19 CLARISSA RODRIGUEZ: Thank you, Board
20 Member Higgins. Is there a second?

21 MARK STASKO: Yes, Madam Chair, this is
22 Board Member Mark Stasko, and I second that motion.

23 CLARISSA RODRIGUEZ: Thank you, Board
24 Member Stasko. Are there any recusals in this matter?

1 Hearing none, is there any opposition to the motion?

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

3 ALL: Aye.

4 CLARISSA RODRIGUEZ: Thank you. All
5 opposed? Hearing none, I am also a yes, that motion
6 is passed. Agenda Item 6, Discretionary and Full
7 Board Review. I now turn this portion of the agenda
8 over to Vice Chair Foster.

9 FREIDA FOSTER: Thank you, Madam Chair. For
10 the cases listed in Item 6 on your agenda, it's been
11 recommended that Full Board Review be granted. Those
12 cases are: 6A, *Triborough Bridge and Tunnel A*; 6B,
13 *Matter of SL Green Realty*. I move to refer the cases
14 back to their respective Panels for further
15 consideration.

16 CLARISSA RODRIGUEZ: Thank you, Vice Chair
17 Foster. Is there a second?

18 LINDA HULL: Yes, Madam Chair, this is Board
19 Member Linda Hull, and I second that motion.

20 CLARISSA RODRIGUEZ: Thank you, Board
21 Member Hull. Are there any recusals from this matter?
22 Hearing none, is there any opposition to the motion?
23 Hearing none, all in favor, please say aye.

24 ALL: Aye.

1 CLARISSA RODRIGUEZ: All opposed? Hearing
2 none, I am also a yes, that motion is passed. Agenda
3 Item 7, Other Business. Board Members, is there any
4 other business to discuss at this time? Okay, hearing
5 none, may I please have a motion to adjourn the
6 meeting?

7 ARELIS TAVARES: Yes, Madam Chair, this is
8 Board Member Tavares, and I move to adjourn the
9 meeting.

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

12 LINDA HULL: This is Board Member Hull, and
13 I second that motion.

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

17 ALL: Aye.

18 CLARISSA RODRIGUEZ: All opposed? I am
19 also a yes, that motion is passed. Meeting adjourned.
20 Thank you very much, everyone, for joining --

21

22 (Whereupon, the meeting was adjourned.)

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