

ILLINOIS SELF-INSURERS ADVISORY BOARD  
ILLINOIS WORKERS' COMPENSATION COMMISSION  
MEETING MINUTES  
April 15, 2013  
Chicago, IL 10:30 a.m.

Board Attendees: Chairman Michael Latz, Gerald Cooper, Deborah Stafford, David Taylor, and via conference call: Alex Alexandrou

Staff Attendees: Manager Maria Sarli-Dehlin, Jean Cannon, Amiel Harper, Ron Rascia, and via conference call: Wendy Keithley, Kevin Leach

**Closed Session**

V. Bankruptcy Report 12/31/2012

Maria Sarli-Dehlin presented to the Board the Bankruptcy Exposure to Security Fund report as of 12/31/2012 which included the current and non-current values of the exposure. She further reported that Carpenter Contractors of America exited from Chapter 11 protection on 2/22/2013.

VI. Litigation

Maria Sarli-Dehlin presented to the Board a memo regarding the Board's claims administration process. As a result of the State's contract with an outside vendor for administration of the state's workers' compensation claims, the computer system used by the Board's adjustor to process benefit claims will be shut down. The memo outlined four options to resolve the issue.

**Discussion ensued. After discussion, upon motion by Alex Alexandrou, seconded by Deborah Stafford, the Board voted unanimously for Option 2 to contract with Tristar to administer the Board's claims.**

Maria Sarli-Dehlin presented to the Board a memo regarding MetroStaff Inc., a temporary labor service company. The company was requested to provide additional information with its 2013 renewal including annual employee census figures. Since it is the company's third renewal application, the security may be reduced from the original requirement of \$1,800,000 to \$1,550,000 pursuant to the rules

Discussion ensued regarding the higher claim rate for staffing companies, lack of hard assets for the type of industry, and the likelihood of bankruptcy. In the best interest of the self-insurance program, there was a consensus to keep the security requirement of staffing companies higher. The Board agreed to use the company's census numbers and pro-rate the losses to determine the security requirement for all staffing agencies. The use of the census numbers provides a rational basis for calculating risk and the rules afford the Chairman and Board discretion and flexibility to consider additional information in determining security.

**After discussion, the Board agreed to increase the security requirement to \$3,750,000 and require quarterly financial statements.**

Maria Sarli-Dehlin presented to the Board the application for self-insurance of Help at Home pursuant to the Chairman's request to review and discuss the nature of the business and the security requirement adequacy for the increasing payroll. Currently, the majority of the applicant's revenue is from its contract with the Illinois Department of Aging.

The staff initially recommended approval with a security requirement of \$550,000 based on the company scoring 18 out of 18 possible points as determined by the formulas in the rules. Additional information was provided as requested regarding the company's list of clients, employees' work activities and annual employee census.

Discussion ensued regarding the parent's standing with the Secretary of State, contract with the state, and similarity to staffing companies. The use of census numbers did not provide a rational basis in determining the security requirement for this company due to its business structure.

**After discussion, the Board agreed to require security in the amount of \$950,000 based on 100% of the company's average paid losses and require quarterly financial statements.**

Maria Sarli-Dehlin presented to the Board the request for reconsideration and recommendation for **Bethany Methodist Corporation**. On 10/12/2012, the 2011/2012 Renewal Notice of Conditional Approval was issued requiring an increase in security from \$225,000 to \$550,000. The increase in security was due to a drop in the earned financial points from 10 to 2 points.

Bethany requested reconsideration of the security requirement and met with Chairman Weisz and staff on 2/8/2013 to discuss the company's condition.

After discussion, the company was offered the opportunity to increase its security requirement in quarterly increments of \$40,625 over two years. Should the 2013 and 2014 renewals result in a lower security requirement, the required installments may be reevaluated.

**The Board agreed to allow the security increase in quarterly increments over a two-year period.**

Maria Sarli-Dehlin presented to the Board the petition for reconsideration and recommendation for **Caterpillar Inc.** On 4/16/2012, the 2012 Renewal Notice of Conditional Approval was issued requiring an increase in security from \$37,700,000 to \$46,000,000. The increase in security was due to a drop in earned financial points from 9 to 8 points.

In its petition, Caterpillar projected it would regain the point lost and its financial score would increase by yearend. The Board agreed to defer the matter until the 12/31/2012 audited financial statements became available. Based on both the 12/31/2012 audited financial statements which scored 9 points and a drop in the outstanding reserves, the security requirement was reduced to \$29,375,000.

**The Board agreed to grant the petition and reduce the security requirement to \$29,375,000.**

Maria Sarli-Dehlin presented to the Board a memo and recommendation for **YRC Inc.** On 2/8/2013, Chairman Weisz and staff met with company representatives to review the progress of the alternative payment plan outlined in the Agreed Order dated 7/18/2011 and addendum dated 7/11/2012. The Order and addendum set cumulative payment targets for YRC to meet in order to defer security increases until the evaluation of the next renewal application.

YRC requested extending the existing alternative payment plan through June 2013.

**The Board agreed to extend the alternative payment plan through June 2013. Board member Gerald Cooper recused himself from the matter.**

Maria Sarli-Dehlin presented to the Board a memo regarding **Mercantile Bank's** letter of credit for **Blessing Corporate Services**. Due to Mercantile Bank's poor rating by bank rating agencies, BauerFinancial and Bankrate, Blessing Corporate Services was requested to replace its letter of credit with a different institution or security instrument.

Mercantile Bank has requested reconsideration of replacing its letter of credit due to its improved financial position.

**Discussion ensued. After discussion, the Board agreed to allow Mercantile Bank to continue to provide the letter of credit but require quarterly condition statements from the bank.**

Maria Sarli-Dehlin presented to the Board the 2012 renewal application for **Harrington & King Perforating Co.** for review and discussion because of the company's deteriorating financial condition which may result in the company's inability to meet its workers' compensation obligations. The 2012 renewal application data calculates a security requirement increase from \$225,000 to \$550,000.

Further, Harrington & King was requested to replace its letter of credit with a different institution or security instrument because Inland Bank and Trust has a poor rating by bank rating agencies, BauerFinancial and Bankrate. Inland Bank and Trust has requested reconsideration of replacing its letter of credit due to its increased capital levels.

**Discussion ensued. After discussion, the Board agreed to increase the security requirement from \$225,000 to \$550,000. The issue regarding the Bank's ratings is on hold pending the security increase request.**

Maria Sarli-Dehlin presented to the Board a memo regarding Fel-Pro. The former self-insured company requests release of its \$525,000 letter of credit provided for the self-insurance period of 1/31/1979-2/24/1998. The two remaining open claims are in the process of being settled.

The request was presented to the Board because: 1) Company pays one claimant permanent total benefits that are reimbursed by an excess carrier; 2) 9 claims with accident dates ranging from 1/29/1979-9/2/1997 appeared on the Commission's database may have been caused by occupational disease exposure; 3) company stopped using asbestos facing materials in its manufacturing of certain caskets in November 1991; 4) twice a year internal inspections of identified asbestos are performed; and 5) occasional abatement projects are done.

**Discussion ensued. After discussion, the Board agreed to postpone a decision and review the request in a year.**

Maria Sarli-Dehlin presented to the Board a memo regarding Georgia-Pacific. The former self-insured company requests release of its \$1,450,000 surety bond because all its claims from the self-insurance period of 6/1/1967-12/18/2005 have been resolved

The request was presented to the Board because one claim appeared on the Commission's database that may have been caused by occupational disease exposure and some asbestos was removed from the Chicago Container facility.

**Discussion ensued. After discussion, the Board agreed to postpone a decision and review the request in a year.**

Maria Sarli-Dehlin presented to the Board a memo regarding H. Kramer & Co. The company entered into a Consent Decree with both the U.S. and IL EPA regarding lead pollution in the air.

The Board's attorney Amiel Harper recommends obtaining continued updates consistent with the Consent Decree regarding violations and clean up efforts.

**The Board agreed to require H. Kramer provide updates regarding the Consent Decree. Board member Gerald Cooper recused himself from the matter.**

Maria Sarli-Dehlin presented to the Board a memo regarding Hall's Motor Transit, an insolvent former self-insurer. During the period of 1986–1990, four surety bonds were called and collected because of the company's failure to pay its workers' compensation obligations from its self-insurance period of 1/1/1979-9/1/1985. Hall's Motor Transit filed a Chapter 11 petition on 3/10/1986.

The Board received the bond proceeds and took over payment of the claims. The last benefit payment was made in June 2005. A balance of approximately \$672,308 remains in the Security Fund.

Discussion ensued regarding disbursing the remaining balance per the independent auditor's request in consideration of the following: a) that the balance is made up of interest earned and excess insurance reimbursement, b) the terms of the 1986 agreement outline the use of the surety bonds and return of any remaining balance, c) and the recommendation to transfer a portion of the balance to the Self-Insurers

Administration Fund to cover the anticipated short-fall and a portion to the unrestricted Self-Insurers Security Fund to lower the amount required from future assessments.

**After discussion, the Board agreed to postpone a decision until the next meeting.**

#### VI. Attorney's Report

Amiel Harper presented to the Board a litigation report listing the status of fourteen claims and their exposure to the Security Fund.

He notified the Board that a formal request was made to the Office of the Attorney General requesting his appointment as Special Assistant Attorney General to settle fifteen resolved claims with ongoing benefit payments. The request was rejected.

Amiel Harper presented to the Board a risk management report containing a summary of H. Kramer vs. Illinois and US EPA. He further recommended that disclosure of EPA violations, sanctions, and investigations be required as part of the self-insurance application process.

Also, the risk management report contained a summary of Hall's Motor Transit and the terms of the 1986 agreement outlining use of the surety bonds and return of any remaining balance. He recommended transferring a portion of the balance to the Self-Insurers Administration Fund and to the unrestricted portion of Self-Insurers Security Fund. He further recommended raising the application and renewal fee to \$750 to cover the anticipated long-term shortfall of the Administration Fund.

Amiel Harper presented to the Board a report regarding lessons learned from the scoring and financial models of the LTV Steel bankruptcy. He further recommended including a cash flow formula in the financial analysis of companies during the 2013 renewal period to determine a rubric for future use to better identify companies in financial trouble.

**Discussion ensued. After discussion, the Board agreed to the application and tracking of the cash flow formula for the 2013 renewal period.**

Upon motion by Gerald Cooper, seconded by David Taylor, the Board voted unanimously to adjourn the closed portion of the meeting, after which the Board reconvened in open session.