

1 Michael Blott, D.C.  
17586 Via Loma Dr.  
2 Poway, CA 92064  
Telephone: 858-487-6940  
3 Fax: 206-222-2691

4  
5 WORKERS' COMPENSATION APPEALS BOARD  
STATE OF CALIFORNIA

6 Bonnie Jackson,

) WCAB Case No.: SDO 0345671

)

8 Applicant,

)

) ANSWER TO PETITION FOR  
) RECONSIDERATION

)

9 vs.

)

10 Standard Homeopathic Company;

)

11 State Compensation Insurance Company )

)

12 Defendants

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13 COMES NOW lien claimant, Michael Blott, D.C. and respectfully requests  
14 that Defendant SCIF's petition be denied.

15 1. Judge Udkovich was within her discretion to sanction SCIF for Bad Faith  
16 Litigation tactics: multiple failures to appear and failure to timely  
17 pay statutorily required amounts. The legislature specifically  
18 imparted this power to Workers' Compensation Administrative Law Judges  
19 in LC section 5813. If such an action is in excess of a WCALJ's  
20 powers, then the WCALJ would have no authority to control their own  
21 court room.

22 2. The evidence clearly supports the findings of fact. The evidence was  
23 entered at MSC and testimony was taken at trial. SCIF was even given  
24 the opportunity to object to submission. SCIF chose to be absent at  
25 the MSC. SCIF chose to be absent at Trial. SCIF did not object to  
submission of the case based on the evidence already entered on the

1 record. This valid evidence clearly supports Judge Udkovich's findings  
2 of fact.

3 3. Judge Udkovich's Order, decision and award are completely supported by  
4 the findings of fact.

5 SCIF has made several misrepresentations concerning the facts of this  
6 case. On page 2, line 19, SCIF alleges that they received the bill for the  
7 4/28/05 Panel QME Evaluation on 9/22/05. In truth, the bill was sent with  
8 the report on 5/25/05. The 5/25/05 proof of service includes a statement  
9 that the bill is attached to the report. SCIF also omits the fact that a  
10 lien was filed and served on SCIF on 8/7/06.

11 One page 3, line 24, SCIF alleges that bill for the date of service of  
12 4/28/05 was paid within 32 days, an inadequate amount was paid on 10/26/05,  
13 see exhibit 1. SCIF's statement at page 3, line 24, is contradicted by their  
14 own admissions in their "Objection and Declaration," dated, 4/13/2007. On  
15 page 2, lines 19 through 21, attorney Gracia states: "As to lien claimant's  
16 claim of late payment, my review of the claim file shows that SCIF made  
17 payment in the amount of \$750.00 for date of service at issue on October 24,  
18 2005, ***approximately five months after lien claimant submitted his bill.***"  
19 Emphasis added. Defendant SCIF made this admission under penalty of perjury.

20 On page 4, line 1, SCIF states that the 5/25/05 proof of service was self  
21 signed. The proof of service was signed by my assistant, Gina Magnani.  
22 Also, on page 4, line 10 SCIF misrepresents the events of 3/5/2007, the date  
23 of the MSC. The Minutes of Hearing on page 5, lines 5 through 13, also show  
24 that SCIF was misrepresenting the payment history. On page 4, lines 3  
25 through 12, SCIF alleges an attempt to resolve the underlying issues on  
2/9/2007. SCIF never spoke with me on 2/9/2007.

1           SCIF has stated that the pursuit of payment of a lien is the cost of  
2 doing business. This may be true where defendant has a valid objection to  
3 the lien. SCIF has no valid objection, and never made an objection to the  
4 lien. SCIF simply chose to engage in Bad Faith Litigation Tactics by failing  
5 to pay the statutorily required amounts, failing to appear at hearings, and  
6 delaying and stalling in the hopes that they could avoid making the  
7 statutorily required payments for the Panel QME evaluation.

8           Lien claimant hereby objects to defendant SCIF's wrongful attempt to  
9 enter new evidence at this point. Lien claimant would be completely denied  
10 all due process to examine and rebut this evidence. It appears that SCIF is  
11 continuing to engage in Bad Faith Litigation tactics.

12           Judge Udkovich stated: "This sanction is imposed to encourage the  
13 defendant to cease its activity of ignoring hearing notices, ignoring the  
14 mandatory language of the Labor Code section 4622, and ignoring  
15 correspondence from the lien claimant such that that lien claimant was forced  
16 to file a Declaration of Readiness to obtain the attention of defendant, to  
17 obtain due process, and to ultimately secure payment of interest and  
18 penalty." These are proper purposes and the imposition of a sanction is  
19 clearly appropriate in this case.

20           SCIF is attempting to rely on their own "usual and customary business  
21 practices." Lien claimant is relying on the Laws of the State of California.  
22 Lien claimant respectfully requests that Judge Udkovich's decision be upheld.

23 Dated: \_\_\_\_\_

Respectfully submitted,

24 /

25 \_\_\_\_\_

Michael S. Blott, D.C.