

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION  
WORKERS' COMPENSATION APPEALS BOARD

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BONNIE JACKSON,

Applicant,

v.

STANDARD HOMEOPATHIC COMPANY;  
STATE COMPENSATION INSURANCE FUND,

Defendants.

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SDO 345671  
MINUTES OF HEARING  
SUMMARY OF EVIDENCE  
NOTICE OF INTENTION  
TO SUBMIT PURSUANT  
TO RULE 10562 ON  
ISSUE OF SANCTIONS  
AND ORDER

PLACE & TIME: San Diego, March 27, 2007,  
at 3:09 p.m. to 3:53 p.m.

JUDGE: NIKKI S. UDKOVICH  
REPORTER: Dirkje Bowker

APPEARANCES: No appearance by Applicant  
  
Michael Blott, D.C.  
Lien claimant

WITNESS: Michael Blott, D.C.

1           The underlying case-in-chief was settled by way of  
2 compromise and release with an order approving issuing  
3 June 28, 2006. Dr. Blott performed a panel QME evaluation  
4 on April 28, 2005. Dr. Blott indicates he was paid \$750 for  
5 that evaluation on October 24, 2005. Thereafter, Dr. Blott  
6 requested penalties and interest on December 19, 2006 by  
7 filing a declaration of readiness on December 20, 2006 and  
8 serving State Compensation Insurance Fund at P.O. Box 92622,  
9 Los Angeles, California 90009. On January 11, 2007 a status  
10 conference was set on that declaration of readiness, and  
11 State Compensation Insurance Fund was served with notice of  
12 that hearing at P.O. Box 92622, Los Angeles, California  
13 90009-2622. The matter was set for status conference before  
14 Judge Smitter on March 5, 2007. No one appeared for State  
15 Compensation Insurance Fund, and at that time Dr. Blott  
16 secured a hearing date for March 27, 2007 on the issues of  
17 penalties and also sanctions under Labor Code section 5813.

18           The mandatory settlement conference statement,  
19 exhibits and the petition for late payment, penalties and  
20 sanctions were served on Defendant State Compensation  
21 Insurance Fund on March 6, 2007, and Dr. Blott is offering  
22 that proof of service as an exhibit. Dr. Blott around  
23 3:00 o'clock spoke with Supervisor Anna Sau at the L.A.  
24 State Compensation Insurance Fund office and was advised  
25 that no one would be appearing on behalf of State Fund.

1 Dr. Blott did verify that the correct address for State  
2 Compensation Insurance Fund is P.O. Box 92622, Los Angeles,  
3 California 90009.

4 Dr. Blott has stated that after the hearing of  
5 March 5, 2007 he did receive a penalty check from State  
6 Compensation Insurance Fund compensating him for late  
7 payment in the amount of \$144.14 on March 7, 2007.

8  
9 **ISSUE:**

- 10 1. Sanctions pursuant to Petition (Exhibit 3).  
11

12 **EXHIBITS:**

13 **WCAB Exhibit X:** The original proof of service  
14 indicating that the notice of hearing for today's hearing,  
15 the minutes of hearing dated March 5, 2007, the pretrial  
16 conference statement and Exhibits 1 through 4 were served on  
17 State Compensation Insurance Fund by proof of service dated  
18 3-6-07.

19 **WCAB Exhibit Y:** A WCAB audit referral form.

20 **Lien Claimant's Exhibit 1:** The April 28, 2005 letter  
21 from Michael S. Blott, D.C. to State Compensation Insurance  
22 Fund.

23 **Lien Claimant's Exhibit 2:** Explanation of review and  
24 proof of payment of \$750 to Dr. Blott on this matter on  
25 October 24, 2005.

1           Lien Claimant's Exhibit 3: Lien claimant's petition  
2 for late payment, penalties and sanctions.

3           Lien Claimant's Exhibit 4: A summary of QME late  
4 payments and letters to State Compensation Insurance Fund  
5 from Dr. Blott dated September 7, 2006, February 15, 2006,  
6 and August 1, 2006.

7  
8   SUMMARY OF EVIDENCE

9   MICHAEL S. BLOTT, D.C.,

10 called as a witness on his own behalf, having been first  
11 duly sworn, testified substantially as follows:

12  
13 DIRECT EXAMINATION:

14           He conducted a panel QME on April 28, 2005. He was  
15 paid for the panel QME by SCIF on October 26, 2005. He  
16 served his billing on May 25, 2005. In September 2005 he  
17 called State Compensation Insurance Fund, and he faxed them  
18 another copy of the billing. However, when he was paid on  
19 October 26, 2005 there was no penalty or interest included.  
20 On October 26, 2005, as is his custom and practice, he sent  
21 another billing requesting penalties and interest to State  
22 Compensation Insurance Fund. He also sent an audit referral  
23 form on December 7, 2005, January 4, 2006, and May 8, 2006.

24           On August 7, 2006 he filed a lien in this case. He  
25 asked for records from State Compensation Insurance Fund.

1 He then filed a declaration of readiness on December 20,  
2 2006. On February 20, 2006 he filed a petition for an order  
3 for service of records.

4 He appeared at a status conference on March 5, 2005 on  
5 his lien. He appeared at 8:30. At approximately 9:30 he  
6 called State Compensation Insurance Fund (SCIF). The  
7 conference was before Judge Smitter. A local hearing rep  
8 named Tom appeared and tried to call State Compensation  
9 Insurance Fund. At approximately 10:30 he spoke with the  
10 person handling this claim, and that person acknowledged  
11 that penalties were paid in the amount of \$40 several months  
12 ago. This witness indicates that he never received \$40 in  
13 penalties.

14 He was advised by a local State Fund attorney that she  
15 would not appear on this case. Judge Smitter offered him a  
16 continuance or a trial, and he chose a trial.

17 On March 7, 2007 he received a check for penalties  
18 from SCIF. The pay stub indicated that the check was issued  
19 the same date of the hearing, March 5, 2007.

20 He appeared today for trial at 8:30. He waited for  
21 about an hour and spoke to acting Presiding Judge Rosa.  
22 Judge Rosa recruited a local State Fund attorney to call  
23 SCIF claims in L.A. This took another hour. The  
24 supervisor, Anna Sau, indicated that she would assign an  
25 adjuster and contact him regarding settlement. He did not

1 receive a return phone call. He appeared for the 1:30  
2 calendar and was assigned to Judge Udkovich after  
3 2:00 o'clock.

4 His travel time for the March 5, 2007 lien conference  
5 was an hour and a half. He stayed at the conference  
6 approximately two hours. He billed at his normal rate,  
7 which is the medical-legal rate of \$250 an hour. He had to  
8 spend time to research his petition for sanctions. He only  
9 billed for two hours, even though he spent much more time.  
10 He then went through his files to determine other cases  
11 where SCIF had not paid timely and failed to pay penalties  
12 on panel QMEs which he had conducted.

13 Reference is made to Exhibit 4. With regard to the  
14 Cindy Bashaw-Downing case, he performed an exam August 1,  
15 2006 and served his billing August 2, 2006 but was not paid  
16 until November 13, 2006. With regard to Raul Ponce, he  
17 performed the examination, again a panel QME, on  
18 February 15, 2006 and served his bill on February 26, 2006.  
19 He was not paid until August 7, 2006, and no penalties were  
20 paid. With regard to William Loch, he performed an exam on  
21 September 5, 2006 and served the billing on September 7,  
22 2006. He has never been paid for the exam nor for any  
23 penalties. He has provided no documentation with regard to  
24 the Julie Velarde case. However, his notes reflect that he  
25 conducted an exam on May 30, 2006 and served SCIF with the

1 billing on May 31, 2006. He then called SCIF and left a  
2 message on August 2, 2006 and was paid August 12, 2006. He  
3 was paid the amount he billed, but again no penalties were  
4 paid.

5 He has taught QME classes for at least the last four  
6 years. The last time he taught the class was June of 2006,  
7 and he is scheduled to teach QME classes in June 2007. His  
8 primary reason for requesting sanctions is to stop SCIF from  
9 continuing this practice of late payment and failure to pay  
10 penalties.

11

12 **DISPOSITION:**

13 **NOTICE OF INTENTION TO SUBMIT PURSUANT TO RULE 10562 ON THE**  
14 **ISSUE OF SANCTIONS AND ORDER**

15


16 Notice is hereby given that absent objection setting  
17 forth good cause being filed with the San Diego Division of  
18 Workers' Compensation at 7575 Metropolitan Drive, Suite 202,  
19 San Diego, California 92108 and served upon parties and  
20 specifically Dr. Blott stating factual reasons why the  
21 matter should not be submitted, the matter will stand  
22 submitted on the issue of sanctions against State  
23 Compensation Insurance Fund for their failure to appear on  
24 March 5, 2007 and March 27, 2007. A mere statement of  
25 objection or declaration of readiness to proceed is

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1 insufficient. Where defendant did not appear for hearing,  
2 an additional affidavit or declaration is required which  
3 shows good cause for failure to appear for hearing.

4 If no proper objection and declaration are timely  
5 filed within ten days from service of this notice, it is  
6 hereby ordered that the matter will stand submitted on the  
7 existing record.

8 The matter was set for hearing on March 27, 2007 at  
9 the San Diego Division of Workers' Compensation at  
10 7575 Metropolitan Drive, Suite 202, San Diego, California.  
11 The matter was handled by Judge Udkovich. Dr. Blott  
12 appeared. No one has appeared on behalf of State  
13 Compensation Insurance Fund.

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17 NIKKI S. UDKOVICH  
18 WORKERS' COMPENSATION  
19 ADMINISTRATIVE LAW JUDGE

20  
21 Date dictated: March 27, 2007  
22 Date file received by reporter: March 27, 2007  
23 Date transcribed and given to WCJ: March 28, 2007  
24 Date file received for service: *March 29, 2007*

25 DATED AND FILED IN SAN DIEGO, CALIFORNIA. *March 29, 2007*

SERVICE BY MAIL ON SAID DATE TO ALL PARTIES  
AND LIEN CLAIMANTS AS SHOWN ON THE OFFICIAL  
ADDRESS RECORD. BY: *OB*