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State Compensation Insurance Fund

8 WORKERS' COMPENSATION APPEALS BOARD  
9 STATE OF CALIFORNIA

11 BONNIE JACKSON,

12 Applicant,

13 v.

14 STANDARD HOMEOPATHIC COMPANY;  
15 STATE COMPENSATION INSURANCE  
FUND,

16 Defendants.

Case No. SDO 0345671

**OBJECTION AND DECLARATION**

17 State Compensation Insurance Fund ("SCIF") hereby objects to the Minutes of  
18 Hearing Summary of Evidence Notice of Intent to Submit Pursuant to Rule 10562 on the  
19 Issue of Sanctions and Order ("NOI") issued March 27, 2007 and filed on SCIF March 29,  
20 2007.

21 Pursuant to the NOI, the issue stated is as follows, "Sanctions pursuant to Petition  
22 (Exhibit 3)." SCIF has no objection to lien claimant's claim for interest or penalty pursuant  
23 to Labor Code § 4622. However, we request the court keep in mind that if any additional  
24 payments are determined due that SCIF has already paid the lien claimant \$750.00 for the  
25 services at issue, as well as an additional \$144.14 in a good faith attempt to resolve any  
26 interest or penalty related to same.

27 SCIF does, however, object to any award pursuant to Labor Code § 5813. Lien  
28 claimant's demand for sanctions is based on alleged late payment of his bill, and the non-

1 appearance of SCIF at the lien conference and subsequent trial, and other evidence of  
2 "similar" practices.

3 With regard to SCIF's failure to appear there were several factors which, though  
4 indicative of lack of communication between offices, show that SCIF's actions were not the  
5 result of bad faith. Pursuant to my review of the case, and as indicated in the NOI, the  
6 case-in-chief was resolved by way of compromise and release with an order approving  
7 issuing June 28, 2006. SCIF claim's file was subsequently closed on July 13, 2006, and  
8 remains closed to date. The SCIF adjusting office is in Los Angeles. However, since lien  
9 claimant filed an application for adjudication at the San Diego Worker's Compensation  
10 Appeals Board ("SD WCAB"), all SCIF legal matters would be handled through the San  
11 Diego office. SCIF, through the Los Angeles office, did receive a copy of lien claimant's  
12 Declaration of Readiness to Proceed, and the subsequent Notice of Hearing for March 5,  
13 2007 from the SD WCAB, but apparently due to the fact that the claim had been closed,  
14 and complicated by the fact that the claim's office and legal office were in different cities, no  
15 legal file was ever initiated and no notice received by the San Diego legal office. However,  
16 pursuant to lien claimant's own testimony, subsequent to the March 5, 2007, SCIF made a  
17 good faith attempt to resolve the issue and made an additional payment for the claim of  
18 interest and penalty as indicated above.

19 As to lien claimant's claim of late payment, my review of the claim file shows that  
20 SCIF made payment in the amount of \$750.00 for the date of service at issue on October  
21 24, 2005, approximately five months after lien claimant submitted his bill. Having had three  
22 years of claim adjusting experience with SCIF, my understanding of SCIF bill payment  
23 policy is that all bills which are not objected to are paid according to fee schedule where  
24 applicable, and to include any penalty or interest that SCIF believes is in good faith due at  
25 the time the bill is submitted. Based on the same, it is my belief that the bill payer did not at  
26 the time of payment of the \$750.00 believe in good faith that payment of interest or penalty  
27 was due. After the March 5, 2007 hearing, SCIF issued, in good faith, an additional  
28 \$144.14 for interest and penalties due.

1 As regards lien claimant's claim of other evidence of "similar" practices. The  
2 examples provided are not relevant to determine whether SCIF violated Labor Code § 5813  
3 in this specific case. The examples are different cases, with different parties, and involved  
4 different circumstances, for which no evidence has been provided establishing any  
5 similarity. In addition, lien claimant has provided only five examples out of the hundreds of  
6 cases he has submitted to SCIF for payment, which evidences the opposite of lien  
7 claimant's contention.

8 Lien claimant has claimed reasonable costs pursuant to Labor Code § 5813.  
9 Pursuant to California Code of Regulations § 10561 the court may order payment of  
10 reasonable expenses, including attorney fees and costs and sanctions pursuant to Labor  
11 Code 5813. SCIF argues that lien claimant is not entitled to any fees as he is not an  
12 attorney. Additionally, as a medical provider, filing and prosecuting a lien as well as the  
13 travel time associated with same are costs of doing business and not separately  
14 reimbursable. Also, the fees claimed are excessive as lien claimant is charging at the  
15 same the rate as a specialist in worker's compensation law.


16 WHEREFORE, SCIF requests that lien claimant's petition for additional interest,  
17 penalties and sanctions be denied and the lien dismissed.

18 I declare under penalty of perjury that the foregoing is true and correct. Executed  
19 this 13<sup>th</sup> day of April, 2007.

20  
21 Dated: April 13, 2007

Respectfully submitted,

22 STATE COMPENSATION INSURANCE FUND

23  
24 By:   
25 Reynaldo Q. Gracia, Attorney

1 **PROOF OF SERVICE BY MAIL - CCP 1013a, 2015.5**

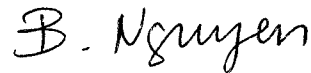
2 I declare that I am employed in the County of San Diego, State of California. I am  
3 over the age of eighteen years and not a party to the within entitled cause. My business  
4 address is: 10105 Pacific Heights Boulevard, Suite 310, San Diego, California 92121-  
5 4214. On April 13, 2007, I served the attached Objection to Objection and Affidavit on the  
6 interested parties in said cause, by placing a true copy thereof, enclosed in an envelope  
7 addressed as follows:

8 Michael Blott  
9 17586 Via Loma Drive  
10 Poway, CA 92064

11 Workers' Compensation Appeals Board (also hand delivered)  
12 7575 Metropolitan Drive, Suite 202  
13 San Diego, CA 92108-4402

14 I am readily familiar with the firm's practice of collection and processing  
15 correspondence for mailing. Under that practice such envelope would be sealed and  
16 deposited with U.S. postal service on that same day with postage thereon fully prepaid at  
17 San Diego, California in the ordinary course of business. I am aware that on motion of the  
18 party served, service is presumed invalid if postal cancellation date or postage meter date  
19 is more than one day after the date of deposit for mailing in this affidavit.

20 I declare under penalty of perjury under the laws of the State of California that the  
21 foregoing is true and correct. Executed on April 13, 2007, at San Diego, California.

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Binh T. Nguyen