



MICHIGAN SELF-INSURERS' ASSOCIATION

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Gerald M. Marcinkoski
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AT&T Michigan
Albert Calille

Consumers Energy Company
Doug Wright

DaimlerChrysler Corporation
Neil D. Levins

DTE Energy
Randall Rutkofske

FinCor Solutions
Janet Kransz

Marathon Oil Company
Barbara Parker

The Pepsi Bottling Group
Amy Tyrala

Tecumseh Products
Randall Krichbaum

Sherriff-Goslin Company
William Ticknor

MINUTES OF BOARD OF MANAGERS' MEETING

April 20, 2007

Holiday Inn North Campus
Ann Arbor, Michigan

Present:

AZAR, S., General Motors Corporation
CALILLE, A., AT&T Michigan
CHILD, L., Varnum Consulting
CYRULNIK, S., Trinity Health
GALLOWAY, P., Wayne State University
HEALY, M. Little Caesar Enterprises, Inc.
KRANSZ, J., FinCor Solutions
KRICHBAUM, R., Tecumseh Products
MAHAN, S., City of Grand Rapids
TYRALA, A., The Pepsi Bottling Company
OHMAN, S., Alticor, Inc.
PARKER, B., Marathon Oil Company
PARKER, J., Ford Motor Company (by Bob Irwin)
RUTKOFKSKE, R., DTE Energy (by Rae Gross)
TICKNOR, B., Sherriff-Goslin Company
WRIGHT, D., Consumers Energy Company

Chairperson's Council:

SUSSER, D., Smith Haughey Rice & Roegge
ZURVALEC, D., Michigan Manufacturers Association

Not Present:

BLOCK, W., (Chairperson's Council) Chamber of Commerce
LEVINS, N., DaimlerChrysler Corporation

The MSIA Board meeting was called to order at 11:40 a.m. by Chairperson Susan Cyrulnik. The Agenda for the meeting was as follows:

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 2
July 19, 2007

AGENDA

1. Presentation by Director Jack Nolish and Mr. Dennis Morrill of the Funds regarding assessments and the Funds Trustees Report.
2. Minutes of Board of Managers' Prior Meeting.
3. Treasurer's Report.
4. Technology Committee Report.
5. *Amicus Curiae* Report
6. Health Care Committee Report.
7. 2007 Spring Conference Report.
8. Legislative Committee Report.
9. Old Business.
 - a. Mileage Questionnaire for Board members.
 - b. David Campbell's Vocational Rehabilitation Task Force.
 - c. Letter to WCRI.
 - d. Magistrate Case Assignments.
 - e. Other Old Business.
10. New Business
 - a. Self Insurance Administrative Rule Changes
 - b. Recusals.
 - c. Workers' Compensation Adequacy Report.
 - d. New Members.
 - e. Other New Business.

The Chair began by having the Board introduce themselves to the guests, Director Jack Nolish, Mr. Dennis Morrill, and Mr. Bruno Czyrka. The meeting began with the presentation made by Mr. Morrill, along with Director Nolish and Mr. Czyrka. The presentation related to upcoming assessments by the Funds on employers and carriers with respect to the Self-Insurers' Security Fund.

Mr. Morrill first provided a history of the Self-Insurers Security Fund. After that background, Mr. Morrill noted that there has been low assessments in recent years, and sometimes no assessment at all. Mr. Morrill reported there was a moderate number of bankruptcies in 2002. In 2003, National Steel went into bankruptcy that created a large impact on the Fund because National Steel's reserves had been inadequate. Mr. Czyrka mentioned that at a previous meeting a couple of years ago, he had presented options including a bond-up-front option - as opposed to reliance on the Self-Insurers' Security Fund. And, the preference at the time among self-insurers was reliance on the Fund.

Mr. Morrill distributed a handout that had been prepared by Richard M. Smith. It revealed that presently there are five self insured employers in some stage of bankruptcy. Mr. Morrill explained the difficulty the Fund would encounter should the Fund need to assume payments for all five of those employers. Mr. Morrill also speculated that some self insured auto suppliers may not survive. For such reasons, he suggested the time has arrived for setting assessments not merely on the basis of present balances but on what may be coming down the road. He projected 2008 may prove more taxing on the Fund than 2007.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 3
July 19, 2007

He recommended an assessment for 2007 in the amount of .02774. The panel then entertained questions from the Board.

In responding to inquiries, Mr. Czyrka said that Michigan, as opposed to most other states, does not require bonds up front for self insurance purposes. This creates a large responsibility for the Self-Insurers' Security Fund. The Board then asked whether it is possible for more than one assessment to be levied in a calendar year, rather than one assessment in the high amount. Mr. Morrill said that there has never been more than one assessment per year. Mr. Calille asked Mr. Morrill to explain the estimated losses for new bankruptcies factored into the projected 2007 operation and income chart on the handout he had distributed, along with the "recommended 2007 assessment." Concern was expressed that the Chart's accounting was not reflective of the reality of the situation. The Board in general expressed the desire to stay with assessing on the basis of the situation as it exists, rather than assessing on the basis of contingency in the future. Mr. Morrill and Mr. Czyrka explained that there is currently approximately 540 approved self-insured employers in Michigan of which 110 relate in some way to the Big Three automakers.

The Board thanked Director Nolish, Mr. Morrill and Mr. Czyrka for their presentation and meeting with the Board. The Board advised that it would further discuss the matter later at the Board meeting under the Funds Committee Report.

The Board then proceeded with its regular meeting. The **Minutes** of the prior Board Meeting were approved upon motion of Ms. Parker seconded by Ms. Tyrala.

The **Treasurer's Report** was presented by Ms. Mahan. She reported that the Association's checking account was in "good shape" with a balance of \$109,852.00. The report was approved upon Motion of Ms. Child, seconded by Ms. Parker.

The **Technology Committee Report** was submitted by Ms. Child. She reported that the Association was set to activate a PayPal method of payment for the Spring Conference effective the following Monday. Registrants for the Conference could enroll on-line for the Spring Conference. Mr. Healy suggested that we examine PayPal's contract to ensure that the Association is protected from any mistake in the PayPal system. Ms. Tyrala advised she will bring the PayPal contract to the next Board meeting. Ms. Child also explained that the Job Bulletin was on the MSIA website for workers' compensation professionals and human resource related fields.

The **Amicus Curiae Report** was submitted by Mr. Calille. Mr. Calille reported that the Supreme Court has ordered an oral argument in *Stokes v DaimlerChrysler Corporation* in response to DaimlerChrysler's application for leave to appeal the Court of Appeals' decision in *Stokes*. The Supreme Court's order requires a supplemental brief and oral argument on the question of whether the Court of Appeals understated the employee's burden of proof on the disability question. Upon the recommendation of Mr. Calille the Board approved an *amicus curiae* brief be filed with a \$2,000.00 payment on the burden of proof question. It was contemplated that the Michigan Manufacturers' Association and the Chamber of Commerce might also join MSIA's *amicus curiae* brief.

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 4
July 19, 2007

The **Health Care Committee Report** was submitted by Ms. Azar. She reported that there had been no recent meeting of the State's Health Care Committee.

The **2007 Spring Conference Committee Report** was delivered by Mr. Ohman, the Chair of the Conference. He indicated that he had met that morning with the conference committee staff. Everything was in place for a successful spring conference at the Grand Traverse. The vendor booths were sold out and a waiting list was created. Credits for continuing education were confirmed. T-shirts for the event have been secured and would be provided at the Conference, and the MSIA website provided good detail on the conference related activities.

The **Legislative Committee Report** was submitted by Mr. Zurvalec. He reported that the focus in Lansing these days is on the budget process and little else.

Under **Old Business**, the mileage questionnaire for Board members would be distributed at a later time. The Board also discussed Mr. Dave Campbell's Vocational Rehabilitation Task Force's efforts at drafting an administrative rule addressing Section 319 Vocational Rehabilitation. Drafts of the rule are being circulated. A letter had been sent to the Workers' Compensation Research Institute [WCRI] by the Executive Secretary at the Board's behest. The letter to WCRI expressed the opinion that WCRI's recent 2007 Michigan CompScope study, which characterized Michigan as a "low cost state" for workers' compensation costs, does not reflect the view of many self insured Michigan employers. The letter outlined MSIA's reasoning with charts and examples for MSIA's point of view. Ms. Azar reported that she received a response from WCRI to our letter. The WCRI indicated it would reconsider some of its conclusions and might revise its assessments.

The Board then briefly discussed new licensing requirements for TPA's which include an addition of 30 more questions that might be answered as part of the licensing process.

Under **New Business**, the Board was provided with the Self-Insurance Administrative Rule Changes. Ms. Azar was to check whether these rules differ from the ones described at the Director's Advisory Committee.

The Executive Secretary advised the Board that the concerns and controversies over certain interpretations of the recusal rules for the Board of Magistrates have been resolved.

The Workers' Compensation Adequacy Report of Director Nolish was reviewed and discussed. This is a report directors are expected to generate every other year.

Under **Other New Business**, Mr. Healy discussed the Board's D & O policy. An issue was raised as to whether the Board's mileage reimbursement policy might make MSIA (and companies on the Board) responsible for automobile accident injuries. Mr. Healy recommended we obtain a non-owner automobile policy. Mr. Healy will review and coordinate the Association's general liability policy with input from Ms. Mahan and obtain a quote so as to have one agent for all aspects of MSIA's insurance. Ms. Kransz discussed changes in her company's bylaws and how it may or may not affect her company's position on

MICHIGAN SELF-INSURERS' ASSOCIATION

Page 5
July 19, 2007

the Board. The Board agreed that for the present time no change was necessitated by Ms. Kransz's company's status.

The Board also reviewed a recent federal bill to reform the medicare set aside process. The Board agreed to endorse the bill and have the Executive Secretary send appropriate letters indicating MSIA's support. Ms. Azar indicated that there was a May 22, 2007 meeting with Senator Stabenow with respect to this bill.

The Board then welcomed new members: Ferris State University, QME, Inc., and Ella Parker, an attorney at Conklin Benham with the members being accepted contingent upon payment of dues.

The meeting adjourned at 4:27 p.m.

Respectfully submitted

Gerald M. Marcinkoski

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Executive Secretary