



ANDREW M. CUOMO
GOVERNOR

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
20 PARK STREET
ALBANY, NY 12207

(866) 750-5157



ROBERT E. BELOTEN
CHAIR

December 23, 2013

Mr. Frank Patone, Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Re: Response to Final Audit Report, Section 13-g (WCL) penalties

Dear Mr. Patone:

This letter is in response to the Final Audit Report of the Workers' Compensation Board entitled *Assessment and Collection of Selected Penalties*. The audit report notes that there are penalties outstanding which total roughly \$1.4 million. However, the Board believes it is important to note that the WCB collects assessments of more than \$1 billion annually with historical collection rates exceeding 99%. The penalties that were audited represent less than .15 % of the Board's annual collections. While \$1.4 million is not immaterial in any fiscal environment, it is a relatively minor amount and the Board believes that it has deployed staffing resources dedicated to collections as efficiently as possible.

Further of the \$1.4 million, the "carrier" with the largest outstanding balance (\$567,600) is the Fund for Reopened Cases. As discussed with the auditors on sight during that audit process, our General Counsel has issued an opinion that the Fund is not liable for these penalties.

Your report issued on 9/24/13 outlined four key recommendations which we will address individually below.

1. **Recommendation:** Enforce the WCB policy on past due debt and assess interest and late payment charges on non-compliant carriers as outlined in the State Finance Law.
WCB Response: The Board has implemented some modifications to its business practices on collecting past due debt since this audit was conducted and other modifications are being considered.

2. **Recommendation:** Take enforcement actions, including referral to the State Attorney General's Office and collection agencies, for those carriers who do not pay their outstanding penalties.

WCB Response: The Board will be sending out letters to past due accounts to attempt to collect overdue penalties. If efforts to collect these penalties prove unsuccessful, and it is determined to be cost beneficial, the Board will send these penalties to the Board's collection agents beginning in calendar year 2014 when the new contracts for these services are awarded.

3. **Recommendation:** Develop periodic reports for the WCB Chairman, showing the number of penalties imposed by carrier, amounts collected and amounts outstanding.

WCB Response: The Board is looking at ways to develop periodic reports for the Chair regarding outstanding penalties.

4. **Recommendation:** Adjust WCB's accounts receivable records and assessment practices to exclude the carriers which it is not authorized to assess penalties on or collect penalties from.

WCB Response: The Board will review its policies in these situations and adjust its accounts receivable records so that carriers in liquidation and/or the Special Funds Conservation Committee will not be assessed penalties.

Thank you for the opportunity to respond to the final audit. Please feel free to contact me if you have any questions.

Sincerely,



Robert E. Beloten
Chairman