

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2000 - 0222

ROBERT FLYNN and CARL MILLER,  
Individually and on Behalf of Others Similarly Situated,

Petitioners

vs.

MONTANA STATE FUND,

Respondent/Insurer,

and

LIBERTY NORTHWEST INSURANCE CORPORATION,

Intervenor.

**FILED**

FEB 18 2014

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

AFFIDAVIT

State of Oregon

:ss

County of Multnomah

1. I, Tathay McNeilly, Being first duly sworn upon oath, depose and say:
2. I, Tathay McNeilly, am the Assistant Vice President for Workers' Compensation Primary Claims for AIG Property Casualty Inc.
3. In my capacity as Assistant Vice President for Workers' Compensation Primary Claims for AIG Property Casualty Inc I am authorized to make the statements set forth in this affidavit on behalf of AIG Property Casualty Inc and to bind AIG Property Casualty Inc by these statements.
4. I have reviewed the *Summons*, the *Notice of Claim of Attorney Fee Lien*, and the *Amended Notice of Attorneys Lien* filed in the above captioned matter (the "Flynn case" or "Flynn"). Pursuant to the criteria set forth in those pleadings, and as further clarified in the cases entitled *Flynn v. State Compensation Ins. Fund*, 2002 MT 279, 312 Mont. 410, 60 P.3d 397; *Flynn v. Montana State Fund*, 2008 MT 394, 347 Mont. 146, 197 P.3d 1007; and *Flynn v. Montana State Fund*, 2011 MT 300, 363 Mont. 55, 267 P.3d 23; there are two claimants covered under workers compensation insurance policies issued by AIG Property Casualty Inc who appear to fall within the scope of the *Flynn* common fund and the attorney fee

DOCKET ITEM NO. 714

RDF

lien asserted by the Petitioner's counsel in *Flynn*. The relevant information for these claimants are:

A. Name: Barbara Ehman  
Claim Number: 073-803397  
Date of Injury: 12/25/1984

Based upon my search of the claim files, Ms. Ehman was identified as a potential claimant meeting the criteria for a *Flynn* claimant. Ms. Ehman was contacted and provided documentation establishing that she had incurred \$3,430.59 in attorney's fees in order to obtain Social Security Disability Benefits.

On 2/4/2014, AIG Property Casualty Inc, at my direction, sent Ms. Ehman a check in the amount of \$1,029.18 which represents one-half of her attorneys fees incurred minus 40% (\$686.12) thereof withheld for the attorney fee lien asserted by counsel for Petitioner, Rex Palmer, pursuant to the *Amended Notice of Attorneys Lien* filed in this action on January 2, 2004.

AIG Property Casualty Inc is prepared to pay the withheld 40% (\$686.12) either to Mr. Palmer or to Ms. Ehman, as the Court shall direct.

B. Name: Shawn Heidrick  
Claim Number: 071-069776  
Date of Injury: 2/19/2001

Based upon my search of the claim files, Mr. Heidrick was identified as a potential claimant meeting the criteria for a *Flynn* claimant. Mr. Heidrick was contacted and provided documentation establishing that he had incurred \$5,300 in attorney's fees in order to obtain Social Security Disability Benefits.

On 2/4/2014, AIG Property Casualty Inc, at my direction, sent Mr. Heidrick a check in the amount of \$1,987.50 which represents one-half of his attorney's fees minus 25% (\$662.50) thereof withheld for the attorney fee lien asserted by counsel for Petitioner, Rex Palmer, pursuant to the *Amended Notice of Attorneys Lien* filed in this action on January 2, 2004.

AIG Property Casualty Inc. is prepared to pay the withheld 25% (\$662.50) either to Mr. Palmer or to Mr. Heidrick as the Court shall direct.

5. Other than Ms. Ehman and Mr. Heidrick, AIG Property Casualty Inc has no claimants meeting the *Flynn* criteria as set forth in the *Summons*.

6. I declare under penalty of perjury that the foregoing is correct.

Dated this 12<sup>th</sup> day of February, 2014.

Tathay McNeilly

Tathay McNeilly  
Assistant Vice President for Workers' Compensation  
Primary Claims for AIG Property Casualty Inc

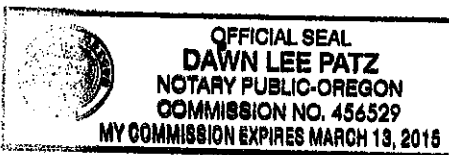
Signed and sworn to before me this 12<sup>th</sup> day of February, 2014

Dawn Patz  
(Signature of Notary)

Dawn Patz  
(Typed, stamped or printed Name of Notary)

(NOTARIAL SEAL)

Notary Public for the State of Oregon  
Residing at Milwaukie OR  
My commission expires 3-13-15



C R O W L E Y | F L E C K PLLP  
ATTORNEYS

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February 13, 2014

Workers' Compensation Court  
P. O. Box 537  
Helena, MT 59624-0537

RE: *Schmill v. Liberty NW Ins. Co. & MT State Fund*  
WCC No.: 2001-0300

*Flynn v. Liberty NW Ins. Co. & MT State Fund*  
WCC No.: 2000-0222

Dear Clerk of Court:

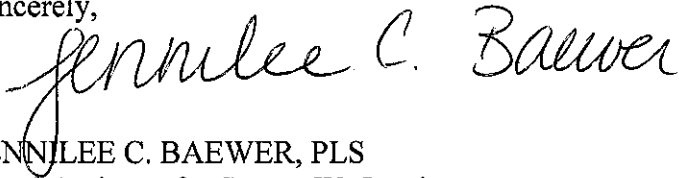
Enclosed please find the original and one copy of an affidavit for AIG Property Casualty, which includes the following companies:

- AIU Insurance Co.
- American International Pacific Insurance Co.
- American Home Assurance Co.
- Birmingham Fire Insurance Co.
- Commerce & Industry Insurance Co.
- Granite State Insurance Co.
- Insurance Co. of the State of Pennsylvania
- National Union Fire Ins. Co. of Pittsburgh, PA
- New Hampshire Insurance Co.
- AIG National Insurance Co.
- American International Specialty Lines Insurance
- American International Insurance Co.
- Illinois National Insurance Co.
- American General Corp. (*not in Schmill*)
- Lexington Insurance Co. (*Schmill only*)

After filing the originals (one in *Flynn* and one in *Schmill*), please time-stamp the copies and return them to our office in the enclosed postage prepaid envelope.

If you have any questions, please call.

Sincerely,

A handwritten signature in black ink that reads "Jennilee C. Bawer". The signature is written in a cursive style with a large initial 'J'.

JENNILEE C. BAEWER, PLS  
Legal Assistant for Steven W. Jennings

Enclosures

c: clients, w/o enc.