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**FILED**

Julie Pollack  
Associate General Counsel

AUG 22 2005

OFFICE OF  
WORKER'S COMPENSATION JUDGE  
HELENA, MONTANA

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**VIA CERTIFIED MAIL- RETURN RECEIPT REQUESTED**

Clerk of Court  
Workers Compensation Court of the State of Montana  
P.O. Box 537  
Helena, MT 59624-0537

**Flynn v. Montana State Fund, WCC NO. 2002-0222**

August 19, 2005

Dear Sir or Madam:

Further to Judge McCarter's request at the July 14, 2005 Common Fund Conference and my recent electronic mail exchange with Ms. Bockman of your office, I write to request the addition of my name to the service list for the above-captioned matter as respects the following affiliated companies named as defendants, for which I serve as in-house counsel:

- Swiss Reinsurance America Corporation ("SRA")
- North American Elite Insurance Company ("NAE")
- North American Specialty Insurance Company ("NAS")

In addition, Judge McCarter advised at the July 14, 2005 hearing that insurers having no claims potentially qualifying for further benefits in a common fund case may request dismissal from such case with prejudice if they provide a sworn affidavit affirming the absence of applicable claims. As indicated in my prior correspondence to this Court, while NAS wrote a limited number of workers compensation policies in Montana, it has no claims that are potentially eligible for further benefits by virtue of this common fund action.<sup>1</sup>

Accordingly, I have enclosed an affidavit executed by the NAS Senior Vice President of Claims, confirming that NAS has no claims to which this common fund action applies. In light of the foregoing and the attached affidavit, NAS respectfully requests dismissal from the above-captioned common fund action with prejudice. It is our understanding that this can be

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<sup>1</sup> By letter dated June 20, 2005, I advised the Court that neither SRA nor NAE wrote any workers compensation policies in the State of Montana and that NAS did not have any claims to which this common fund action applies. The June 2005 letter requested that all three companies be dismissed from the litigation.

DOCKET ITEM NO. 362



accomplished without the necessity of a formal pleading. If the Court disagrees or has any questions, please contact the undersigned.

Sincerely,

A handwritten signature in cursive script that reads "Julie Pollack".

Julie Pollack

cc: The Honorable Michael McCarter  
Workers Compensation Court of the State of Montana  
P.O. Box 537  
Helena, MT 59624-0537

Rex Palmer  
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301 W Spruce  
Missoula, MT 59802

WORKERS COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR

WCC No. 2002-0676

vs.

MONTANA STATE FUND

ROBERT FLYNN and CARL MILLER

WCC No. 2000-0222

vs.

MONTANA STATE FUND, et al

AFFIDAVIT OF ALFRED W. BODI FOR AND ON BEHALF OF NORTH AMERICAN SPECIALITY INSURANCE COMPANY

STATE OF NEW HAMPSHIRE

COUNTY OF Hillsborough

) ss.

Alfred W. Bodi, being first duly sworn, on oath deposes and says:

1. I am employed by North American Specialty Insurance Company ("NAS") as Senior Vice President, Claims. As part of my employment responsibilities, I am responsible for supervising the handling and management of workers compensation claims under policies issued by NAS.
2. At my direction and under my supervision, employees of NAS have conducted a diligent search of NAS' records and located eight workers compensation claims under NAS policies by Montana claimants.
3. On the basis of this diligent search, NAS has determined the following:
  - (a) None of these eight claims involve permanent partial disability benefits (at issue in *Reesor*).
  - (b) NAS did not take offsets for social security disability benefits against these eight claims (at issue in *Flynn*).
4. The above is true and correct to the best of my knowledge.

Alfred W. Bodi.

Date: 5/12/2005

So subscribed and sworn to before me this 12<sup>th</sup> day of July, 2005,

Eunice C. Kouveliotis

Notary Public for the State of New Hampshire

My Commission Expires: \_\_\_\_\_

EUNICE C. KOUVELIOTIS, Notary Public  
My Commission Expires January 4, 2010