

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

CASSANDRA SCHMILL,

Petitioner,

vs.

LIBERTY NORTHWEST INSURANCE CORPORATION,

Respondent/Insurer,

and

MONTANA STATE FUND,

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 *Amended Summons and Notice of Attorney Fee Lien* filed in the above captioned matter (the "*Schmill* case" or "*Schmill*"). Pursuant to the criteria set forth in that pleading, and as further clarified in the cases entitled *Schmill v. Liberty Northwest Ins. Corp.*, 2003 MT 80, 315 Mont. 51, 67 P.3d 290; *Schmill v. Liberty Northwest Ins. Corp.*, 2005 MT 144, 327 Mont. 293, 114 P.3d 204; and *Schmill v. Liberty Northwest Ins. Corp.*, 2009 MT 430, 354 Mont. 88, 223 P.3d 84; there is one claimant covered under workers compensation insurance policies issued by AIG Property Casualty Inc who appears to fall within the scope of the *Schmill* common fund and the attorney fee lien asserted by the Petitioner's counsel in *Schmill*. The relevant information for this claimants is:

Name: Carole Allison

DOCKET ITEM NO. 597

PDF

Claim Number: 071-065657

Date of Injury: 01/25/2000

Based upon my search of the claim files, Ms. Allison was identified as a claimant meeting the criteria for a *Schmill* claimant. My file review revealed that Ms. Allison's injury/occupational disease was apportioned as 70% due to occupational factors and 30% due to non occupational factors. Ms. Allison was entitled to 4.43 weeks of temporary total disability benefits at the rate of \$425.00 for a total of \$1,882.75. Pursuant to § 39-72-706, MCA, AIG Property Casualty Inc apportioned Ms. Allison's Temporary Total Disability benefits and paid Ms. Allison \$1,317.93, or 70% of her un-apportioned TTD entitlement.

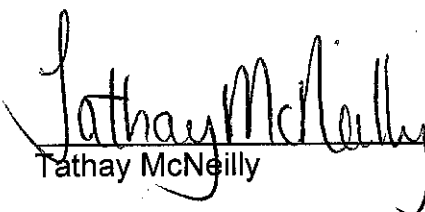
On 2/4/2014, AIG Property Casualty Inc, at my direction, sent Ms. Allison a check in the amount of \$423.62 which represents 30% of Ms. Allison's un-apportioned TTD entitlement which AIG Property Casualty Inc originally withheld pursuant to § 39-72-706, MCA, minus 25% (\$141.21) thereof withheld for the attorney fee lien asserted by counsel for Petitioner, Laurie Wallace, pursuant to the *Amended Summons and Notice of Attorney Fee Lien* filed in this action on December 7, 2005.

AIG Property Casualty Inc is prepared to pay the withheld 25% (\$141.21) either to Ms. Wallace or to Ms. Allison as the Court shall direct.

5. Other than Ms. Allison, AIG Property Casualty Inc has no claimants meeting the *Schmill* criteria as set forth in the *Amended Summons and Notice of Attorney Fee Lien*.
6. I declare under penalty of perjury that the foregoing is correct.

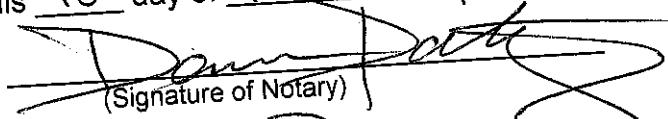
Dated this 12th day of February, 2014.

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Tathay McNeilly

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

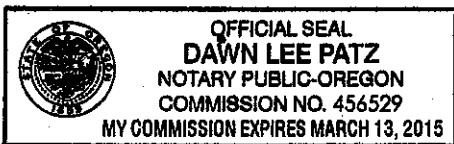
Signed and sworn to before me this 12th day of February, 2014


(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



CROWLEY | FLECK 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:

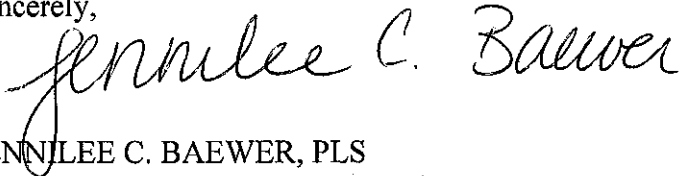
Enclosed please find the original and one copy of an affidavit for AIG Property Casualty, which includes the following companies:

- 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.