



National
Council on
Compensation
Insurance, Inc.

Regulatory Services Division

Tim Hughes
Regulatory Services Manager
Regulatory Assurance

Meeting Schedule & Minutes

Nevada Appeals Panel for Industrial Insurance

NCCI Agenda Tracking No. NV-AP- (03, 04) – 2009

Date of Release: December 22, 2009

Date of Meeting: Wednesday, December 16, 2009

Location of Meeting: Division of Insurance, Bradley Building, Real Estate Conference Room, 2nd Floor, 2501 East Sahara Ave., Las Vegas, Nevada.

Members:

Name	Representing	Voting? Y/N	Present? Y/N	Substitute
Kay Lockhart	Nevada Independent Insurance Agents	Y	Y	
Ray Sanchez	State Farm Insurance	Y	Y	
Terri Chambers	Nevada Insurance Division	Y	Y	
Sharolyn Wilson	SPW, Inc.	Y	Y	
Richard O'Brien	Meadowbrook Insurance Group	Y	Y	
Tim Hughes	National Council on Compensation Insurance	Y	Y	
Dennis Caviglia	Public Position	Y	Y	

Agenda Items

Time	Issue	Resolution
9:20 a.m.	Election of Panel Chair	

Time	Issue	Resolution
9:25 a.m.	Approval of February 11, 2009 meeting minutes	

Time	Employer	Carrier	Case No.	Issue	Resolution
9:30 a.m.	North American Foundations	Berkley Regional Ins. Co.	03	Classification dispute between Code 5221 and Code 5215	After further discussion, Mr. Nelson stated that based on the information provided by Mr. Kimak during the Panel meeting, he would revise the disputed audit term by assigning Code 5221 in place of Code 5215. Based on Mr. Nelson's agreement to revise the audit to Code 5221, the Panel determined that a formal ruling on its part was not required. The Panel considered the matter resolved in favor of NAF, and the meeting was adjourned without a formal ruling by the Panel.
Abstained:					

Time	Employer	Carrier	Case No.	Issue	Resolution
11:00 a.m.	D B Construction	Williamsburg National Insurance Co.	04	Classification dispute between Code 5606 and Code 9014, and Code 5645	Resolved prior to hearing
Abstained:					

Distribution:
Panel Members



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Nevada Appeals Panel for Industrial Insurance

NCCI Agenda Tracking No. NV-AP- (16602 & 16001) – 2010

Date of Release: August 31, 2010

Date of Meeting: Friday, August 20, 2010

Location of Meeting: Division of Insurance, Bradley Building, Real Estate Conference Room, 2nd Floor, 2501 East Sahara Ave., Las Vegas, Nevada.

Members:

Name	Representing	Voting? Y/N	Present? Y/N	Substitute
Kay Lockhart	Nevada Independent Insurance Agents	Y	Y	
Ray Sanchez	State Farm Insurance	Y	Y	
Terri Chambers	Nevada Insurance Division	Y	Y	
Sharolyn Wilson	SPW, Inc.	Y	N	N
Richard O'Brien	Meadowbrook Insurance Group	Y	Y	
Tim Hughes	National Council on Compensation Insurance	Y	Y	
Dennis Caviglia	Public Position	Y	N	N

Others Present

Representing	Name
Employers Insurance	Don Smith
Silver Service Refreshment Systems	William Thomas
White Sierra Construction	Chris and Stacey Michael
National Council on Compensation Insurance	Maggie Karpuk

Agenda Items

Issue	Resolution
Election of Panel Chair	RESOLVED , that Kay Lockhart serve as the Panel chair for

	meetings held in 2010.
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Employer	Carrier	Case No.	Issue	Resolution
Silver Service Refreshment Systems	Employers Insurance Company	16602	Classification dispute between Code 8018 & Code 5192	RESOLVED , that Code 8018 is the governing classification applicable to SSRS. Drivers that deliver product are correctly classified to Code 8018, not Code 8742 as allowed in past policies.
Abstained:				

Employer	Carrier	Case No.	Issue	Resolution
White Sierra Construction	Williamsburg National Insurance Co.	16001	Classification dispute between Code 5437 and Code 5645	RESOLVED , that the \$375 paid for rough carpentry is correctly classified to Code 5645 with the balance of the payroll properly classified to Code 5437. This decision applies to the Hohlbein project only.
Abstained: Panel member Richard O'Brien, representing Meadowbrook, abstained from voting as Meadowbrook is the insurance carrier for White Sierra Construction.				

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Panel Members



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Nevada Appeals Panel for Industrial Insurance

NCCI Tracking No. NV-AP-01- (19247) – 2012

Minutes Release Date: February 13, 2012

Meeting Date: January 24, 2012

Location of Meeting: Division of Insurance, Bradley Building, Conference Room, 2nd Floor, 2501 East Sahara Ave., Las Vegas, Nevada.

Members:

Name	Representing	Voting? Y/N	Present? Y/N	Substitute
Kay Lockhart	Nevada Independent Insurance Agents	Y	Y	
Ray Sanchez	State Farm Insurance	Y	Y	
Terri Chambers	Nevada Insurance Division	Y	Y	
Maureen Martinez	State of Nevada – Risk Management Division	Y	Y	
James Werbeckes	Employers Insurance Group	Y	Y	
Tim Hughes	National Council on Compensation Insurance	Y	Y	
Dennis Caviglia	Public Position	Y	Y	

Others Present:

Name	Representing
Leonard Ambrosino	Master Built Construction
Steve Unger	Meadowbrook Insurance Group

Agenda Items

Issue	Resolution
Election of Panel Chair	Kay Lockhart was elected to serve as Panel chair.

Employer	Carrier	Case No.	Issue	Resolution
Master Built	Williamsburg Insurance Co.	19247	Classification Dispute	RESOLVED, That Mr. Teigen was not eligible for Code 5606 during the policy period in dispute. The correct classification for Mr. Teigen is to be determined by Meadowbrook Insurance Group at final audit and will be based on the type of work he had direct supervision over.
Abstained:				

Distribution:
Panel Members



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Meeting Schedule & Minutes

Nevada Appeals Panel for Industrial Insurance

NCCI Tracking No. NV-AP-03- (20720) – 2012

Schedule Release Date: August 9 2012

Meeting Date: August 22, 2012

Location of Meeting: Hilton Garden Inn, 7830 South Las Vegas Boulevard, Las Vegas, Nevada.

Members:

Name	Representing	Voting? Y/N	Present? Y/N	Substitute
Kay Lockhart	Nevada Independent Insurance Agents	Y	Y	
Ray Sanchez	State Farm Insurance	Y	Y	
Terri Chambers	Nevada Insurance Division	Y	Y	
Maureen Martinez	State of Nevada – Risk Management Division	Y	Y	
James Werbeckes	Employers Insurance Group	Y	N	N
Tim Hughes	National Council on Compensation Insurance	Y	Y	
Dennis Caviglia	Public Position	Y	Y	

Others Present:

Name	Representing
Merlin Hardy	Hardy Development
Louis Phillips	Liberty Mutual
Lally Smith	United Agencies
Maggie Karpuk	National Council on Compensation Insurance

Agenda Items

Employer	Carrier	Case No.	Issue	Resolution
Hardy Development	Liberty Mutual	20720	Classification Dispute	That Eric Hardy is eligible for Code 5606 during the policy period in dispute.

Abstained: Tim Hughes, NCCI

Distribution:
Panel Members

NEVADA APPEALS PANEL FOR INDUSTRIAL INSURANCE

Merlin Hardy
Hardy Development
494 Spanish View Ln.
Las Vegas, NV 89110

August 30, 2012

CASE SUMMARY & PANEL DECISION

NCCI Case No: 19247

Meeting Information: The workers compensation classification dispute of Hardy Development was heard by the Nevada Appeals Panel for Industrial Insurance (Panel) on Wednesday, August 22, 2012, at the Hilton Garden Inn, Las Vegas, Nevada.

Carrier: Liberty Mutual, Policy # WC 539S307931020, Effective 11/11/10-11

Nature of Business: Construction Contractor

Classifications under Review:

- Code 5606—CONTRACTOR—PROJECT MANAGER, CONSTRUCTION EXECUTIVE, CONSTRUCTION MANAGER OR CONSTRUCTION SUPERINTENDENT
- Code 5403—CARPENTRY NOC

Issue in Dispute: Liberty Mutual classified employee Eric Hardy (Eric) to the governing classification of the business, Code 5403. Hardy Development believes Eric is eligible for assignment to Code 5606.

Summary of Insured's Position: Agent Lloyd Cutler and business representative Merlin Hardy (Merlin) provided the following information:

- Hardy Development is a construction contractor that uses subcontractors to perform all construction work.
- Hardy Development employs three workers, a bookkeeper, Merlin and Eric.
- Eric is responsible for the construction jobsite, but does not direct the work of the subcontractors. Each subcontractor has their own jobsite foreman/supervisor.
- All subcontractors are licensed and have their own direct employees.
- Merlin advised the Panel that he reviewed his records to make sure all subcontractors had their own foreman to supervise the actual construction workers. He said he found an entry that was made by his bookkeeper that stated one of the subcontractors, First Choice Cleaning, had "No Employees – sole proprietor - Wayne Allen." Merlin stated that this is an incorrect statement by his bookkeeper. Wayne Allen was hired to perform construction cleanup at the jobsite. Wayne employed 4 to 5 employees of his own every time he went to the jobsite. Merlin stated that Wayne is an older gentleman who does little of the cleanup work himself. He supervises his own employees at each job site.
- Merlin confirmed to the Panel that all subcontractors had their own jobsite supervisor or foreman that directed the work of their employees and that Eric had no direct supervision of any construction worker.

Summary of Carrier's Position: Louis Phillips represented Liberty Mutual and provided the following information:

- Code 5606 states that when a project manager exercises control through a subcontractor, each subcontractor must have a supervisor or foreman at the job site in order to permit the assignment of this classification. If any of the subcontractors do not have a job supervisor or foreman at any job site

visited by the construction executive, the entire payroll of the construction executive for that policy year is assigned to the highest rated construction class code applicable. Based on the subcontract labor detail obtained during the audit, it appears the insured may use some sole proprietors such as Ivan Perez Ortiz, First Choice Cleaning-Wayne Allen, Robb's Concrete Pumping, etc.

- The financial records reviewed during the audit reported a number of smaller payment amounts to various subcontractors. The payment of small dollar amounts does not support the presence of a foreman/supervisor as well as direct labor employee(s) at the job site. For example, checks were written to AFC Fire Company for the amount of \$146, Security Plumbing for \$300, JL Paint for \$400, Diamond Concrete Cutting for \$167, Robb's Concrete Pumping for \$250, and Performance West Glazing for \$119.
- Eric is the only employee of Hardy Development on the job site. The audit worksheet states that Eric directly supervises subcontractors hired to complete the construction work. The information provided on the audit worksheet was provided by Merlin. The description of Code 5606 states that this code does not apply to any person that is directly in charge of actual construction work.
- In correspondence with Merlin, he refers to Eric as a "supervisor".
- Eric is the only individual employed by Hardy Development who is responsible for completion of all construction work.
- If Eric has no direct supervision of construction workers, Liberty Mutual would need additional records such as copies of invoices, work orders, contracts, and statements from the subcontractors that document that all subcontractors have a supervisor and a foreman overseeing the work completed by the subcontractor employee.
- Based on the information provided, it is the position of Liberty Mutual that Eric does not qualify for Code 5606 and is correctly classified to Code 5403.

Panel Discussion and Decision: The Panel discussed the following issues:

- It appears that Liberty Mutual's auditor did not pursue the issue of whether Eric qualified for Code 5606 sufficiently at the time the audit was completed. If Liberty Mutual needed additional documents to determine if Eric was eligible for Code 5606, these documents should have been requested at the time of the audit.
- Liberty Mutual did not provide convincing evidence that Hardy Development used sole proprietor subcontractors that had no employees of their own. It appears Liberty Mutual relied in part on a number of small payments made to subcontractors, stating that the small payment amounts indicate that only a single worker was on the job site. However, during the Panel meeting, Merlin stated that these small amounts were not the sum total of the amounts paid to these subcontractors. The small payments amounts were either the final payments for work performed or may have been payments for final punch list work needed to correct work after the job was completed. If the payments were for punch list work, Eric would not have been on the work site when this work was completed.

After further discussion, a motion was made, seconded and passed by majority vote and it was,

RESOLVED, That Eric Hardy is eligible for Code 5606 during the policy period in dispute.

Notice to Liberty Mutual

By copy of the Panel's decision, Liberty Mutual is notified to apply the Panel's decision to the disputed policy term of Hardy Development.

Right to Appeal

A party to the hearing who wishes to appeal a ruling of the Panel must do so pursuant to the provisions of NRSB.310. The commissioner of insurance will conduct such a hearing pursuant to the provisions of NRS 679B.310 to 679B.370 inclusive. For further information on this process, please contact the Division of Insurance.

Prepared by Tim Hughes, Panel Secretary

Distribution:

Appeals Panel Members

Louis Phillips - Liberty Mutual

Lally Smith - United Agencies



Meeting Schedule & Minutes

Nevada Appeals Panel for Industrial Insurance

NCCI Tracking No. NV-AP-01- (22524, 22186 & 22610) – 2013

Minutes Release Date: March 31, 2013

Meeting Date: Tuesday, March 19, 2013

Location of Meeting: The meeting was held in the Hearing Room of the Nevada Division of Insurance, located at 1818 E. College Parkway, Suite 103, Carson City, Nevada.

Members:

Name	Representing	Voting? Y/N	Present? Y/N	Substitute
Kay Lockhart	Nevada Independent Insurance Agents	Y	Y	
Ray Sanchez	State Farm Insurance	Y	Y	
Terri Chambers	Nevada Insurance Division	Y	Y	
Maureen Martinez	State of Nevada – Risk Management Division	Y	Y	
James Werbeckes	Employers Insurance Group	Y	Y	
Tim Hughes	National Council on Compensation Insurance	Y	Y	
Dennis Caviglia	Public Position	Y	Y	

Agenda Items

Time	Employer	Carrier	Case No.	Issue	Resolution
12:30 p.m.	Pyritz Pyrotechnics Group	Liberty Mutual	22610	Classification & Backdating Code Change	RESOLVED , that Code 9154 must remain on the following policies: 1. WC539S08981019, Effective 9/1/2009-2010 2. WC539S08981010, Effective 9/1/2010-2011 3. WC539S08981011,



**National Council on
Compensation Insurance**

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					Effective 9/1/2011- 1/24/2012 As of 1/25/2012 and forward, Code 9180 applies. The decision to allow Code 9154 on the above policies does not impact the endorsements that added Code 9180 for coverage outside of Nevada.
Abstained:					

Time	Employer	Carrier	Case No.	Issue	Resolution
1:30 p.m.	DEA, Inc.	American Mining Insurance Company	22186	Class Code	RESOLVED , that Code 3643 applies to DEA as its operations currently stand. However, if DEA elects to install physical partitions in its shop area that separates work performed on products that have electrical components from products that have no electrical components, and the physical separation is deemed acceptable by its insurance carrier, Code 3632 could be added for such operations.
Abstained:					

Time	Employer	Carrier	Case No.	Issue	Resolution
2:30 p.m.	Las Vegas Tour Company	Liberty Mutual	2252 4	NCCI Ownership Ruling	Insured requested postponement.
Abstained:					

Distribution:
Panel Members



Meeting Schedule & Minutes

Nevada Appeals Panel for Industrial Insurance

NCCI Tracking No. NV-AP-02- (22524 & 23300) – 2013

Minutes Release Date: October 14, 2013

Meeting Date: Thursday, October 3, 2013

Location of Meeting: The meeting was held in the Hearing Room of the Nevada Division of Insurance, located at 1818 E. College Parkway, Suite 103, Carson City, Nevada.

Members:

Name	Representing	Voting? Y/N	Present? Y/N	Substitute
Kay Lockhart	Nevada Independent Insurance Agents	Y	Y	
Terri Chambers	Nevada Insurance Division	Y	Y	
Maureen Martinez	State of Nevada – Risk Management Division	Y	N	
James Werbeckes	Employers Insurance Group	Y	Y	
Tim Hughes	National Council on Compensation Insurance	Y	Y	
Dennis Caviglia	Public Position	Y	N	

Agenda Items

Time	Employer	Carrier	Case No.	Issue	Resolution
9:30 a.m.	Las Vegas Tour Company	Liberty Mutual	22524	NCCI Ownership Ruling	NCCI ruling overturned.
Abstained: NCCI					

Time	Employer	Carrier	Case No.	Issue	Resolution
10:30 a.m.	Edgewood Companies	Sequoia Insurance	23300	Classification of Restaurants	NCCI Inspection assignments upheld.
Abstained: NCCI					