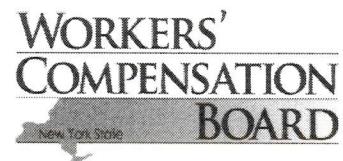




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ROBERT E. BELOTEN  
CHAIR

February 13, 2015

To: Members of the NY Transportation Workers' Compensation Trust ("NY Transportation" or "the Trust")

Subject: NY Transportation's 2014 Deficit Assessment Billing Plan

Dear Employer Member:

The New York State Workers' Compensation Board (the "Board") has monitored the runoff activity of the NY Transportation Workers' Compensation Trust. The Board has reviewed the 2014 Deficit Assessment Billing Plan (the "Plan") developed and implemented by the Trustees. As the Plan appeared to be a reasonable exercise of discretion by the Trustees of NY Transportation, the Board approved of the Plan.

First and foremost, the Board wishes to remind you that, pursuant to the Trust Agreement, the Trust's By-Laws and the Participation Agreement you signed when you entered the Trust, consistent with your obligations under the New York State Workers' Compensation Law (the "WCL") and attendant regulations, you are jointly and severally liable for the deficit of NY Transportation for your years of participation.

At the request of the Board of Trustees for NY Transportation, we are writing to inform you of the events that would occur if NY Transportation fails to collect and maintain a sufficient level of funds so as to be able to properly administer its' own liabilities, and, accordingly, the Board, pursuant to 12 NYCRR §317.20, were forced to assume the administration and final distribution of NY Transportation's assets and liabilities.

Once NY Transportation is assumed by the Board pursuant to WCL §50(3-a)(7)(b), within 120 days, a deficit assessment would be issued by the Board to all of NY Transportation's employer members, including yourself. This assessment is issued to provide the Board with sufficient funds so as to meet the obligations of NY Transportation, *i.e.*, to make claims payments to your injured employees and injured employees of other employer members that participated in NY Transportation, pending the completion of a forensic accounting and deficit reconstruction of NY Transportation. The cost of the forensic accounting and deficit reconstruction would be allocated to the Trust and its jointly and severally liable members, including you. In the event that an employer member fails to pay on their deficit assessment, interest would begin to accrue on the assessment amount and will be included in their final deficit assessment.

Upon completion of the forensic accounting and reconstruction, a final deficit assessment would be issued. Several repayment options will be offered to the members once the final deficit assessment is issued. In the event that an employer member fails to make payments on their final deficit assessment, interest would also accrue on the amount of the final deficit assessment.

Regrettably, I must inform you that in the event that you chose not to participate in the repayment agreements proposed by the Board, the Board would be forced to commence collection activities against you relative to the final deficit assessment<sup>1</sup>. Again, this action is necessary to ensure the continued flow of vital workers' compensation benefits to the injured workers who claim through NY Transportation, many of whom are your own employees.

These options are not the desire of the Board. The Board has worked with your Trustees to facilitate the collection of the necessary funds from employer members and attempt to resolve the Trust's remaining liabilities on a voluntary basis. Consequently, the Board sincerely wishes to avoid the scenario described above by encouraging all members of the Trust to voluntarily participate in the Plan. However, in the event that the administration of NY Transportation is nonetheless assumed by the Board, an employer member that pays into its voluntary assessment program would be credited with its payments as part of the final forensic accounting and reconstruction, provided that the Trust's records confirm such payments.

Sincerely,



Michael Papa  
Deputy General Counsel  
Litigation Division  
NYS Workers' Compensation Board

cc: Board of Trustees  
(NY Transportation Workers' Compensation Trust)

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<sup>1</sup> Alternatively, a judgment could be filed against a non-paying employer, pursuant to WCL §50(3-a)(7)(b), in the amount of unpaid compensation for its own employees.