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August 28, 2014

Robert E. Beloten  
Chair  
New York State Workers' Compensation Board  
328 State Street  
Schenectady, New York 12305

Re: NYS IG 1372-013-2013

Dear Chair Beloten:

In August 2013, my office received a complaint submitted by your agency that Associate Workers' Compensation Examiner [REDACTED], who was injured on the job, was inappropriately working on his own claim, scheduling and administering his own hearings. [REDACTED] works in the Rochester District Office.

Our investigation found that [REDACTED] accessed his own computer case file in the Workers' Compensation Board ("Board") Case Information System on a number of occasions in violation of Board policy 700-5, which prohibits employees from "having access to, or accessing, the Board's file, Electronic Case Folder, or any Board documents pertaining to such claim." My office also found that [REDACTED] performed work on his own file in violation of the same Board policy which prohibits employees from, "having any involvement in the administration or adjudication of such claims during the course of his or her employment."

When interviewed by members of my office, [REDACTED] admitted to accessing his file on a number of occasions and to working on his file on three occasions. He also acknowledged that his actions were contrary to Board policy. I referred this matter to Board Deputy General Counsel [REDACTED] on May 13, 2014, who advised us that disciplinary action has been commenced against [REDACTED].

As you know, in cases in which Board employees are claimants, to ensure impartiality, Senior Law Judges are assigned from a different region to preside over the

cases. In addition, the Board has formed working groups in each region comprised of a limited number of examiners to be solely responsible for the cases in which Board employees are claimants. However, [REDACTED] supervises this working group in the Rochester office, and despite his personal claim, was not removed from supervising his own case; nor did he remove himself from that role despite his knowledge of Board policy. Not surprisingly, members of the working group expressed their discomfort regarding reporting to him about his own case, and expressed general discomfort in investigating claims of any of their Board colleagues. Accordingly, to protect the integrity of the review process, I recommend that Board employee claims be assigned to examiners in the same region in which the assigned Senior Law Judge is located. Policy establishing this practice should be implemented.

It is requested that within 45 days you advise this office of any actions or decisions taken in response to this recommendation. It is also requested that you advise this office of the outcome of the commenced disciplinary action. If you have any questions regarding this matter, you can contact Deputy Inspector General Audrey Maiello Cunningham at (518) 474-1010.

Sincerely, /

[REDACTED]  
Catherine Leahy Scott  
Inspector General