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## **New York -- Self-Insured Trusts: Paying Your Competitors' Costs: [04/22/08]**

By Adam Friedlander

In an ominous sign, all group self-insured trusts and individual self-insureds were assessed \$30 million to pay for the claims of 14 terminated trusts. By levying this assessment, the New York Workers' Compensation Board has made it clear that the healthy self insured trusts in New York will financially bail-out the unhealthy.

The scorecard for the trusts' financial strength has reached a new low, based upon the New York State Workers' Compensation Board Group Self-Insured Trusts Report dated March 28. The report reveals that five more trusts are closing, bringing the total to 14. It lists 22 as "under funded", of which four are allowed no new members and 16 are flagged "membership restricted". To date, 36 trusts, or 55%, are either closed or underfunded. Trusts with no funding issues are the minority.

The "14 trusts closing since early 2006 (including six in 2008) currently have a total annual claims cost of about \$78 million," according to the Professional Insurance Agents of New York (PIANY) Weekly Reporter issued April 10.

Upon application to a self insured trust, a member agrees to be jointly and severally liable for the unfunded liabilities and expenses incurred during their membership. Members are liable together (jointly), but if all of the other members were unable to pay, an individual member can be entirely liable (severally). Individual Members of the closed trusts have been assessed tens of millions of dollars.

The Insurance Association of Agents and Brokers said that the NYWCB "fully expects to collect the assessments and has already begun collection efforts in conjunction with the state Attorney General's office," according to a workcompcentral article dated April 2.

In the meantime, injured workers' claims require prompt payment. According to an April 2008 WorkCompCentral article, "Chairman Zachary Weiss (of NYWCB) asked the New York Legislature for authority to issue

\$59.5 million in bonds to pay off claims from trusts in default. Those would be retired by assessments to self-insured entities operating in New York.”

In February 2008, the State Workers' Compensation Board levied a \$30 million assessment to all group self insured trusts and individual self insurers, authorized under Section 50 5(f) of the law. Consequently, all trusts will move closer to under funded or terminated status.

“Representatives for several group self insured trusts went to the New York Supreme Court in Albany, seeking to stay the enforcement of their 2008 “50-5” assessments,” according to the Weekly Reporter.

Paying for the workers' compensation liabilities of competitors is the stark reality for thousands of members of group self insured trusts in New York.

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