

# Alaska Workers' Compensation Appeals Commission

Victor Shehata,  
Appellant,

vs.

Salvation Army and Northern  
Adjusters,  
Appellees.

## Final Decision

Decision No. 063 December 20, 2007

AWCAC Appeal No. 07-021

AWCB Decision No. 07-0088

AWCB Case No. 200323810

Appeal from Alaska Workers' Compensation Board Decision No. 07-0088 issued April 17, 2007, by the southcentral panel at Anchorage, Alaska, Darryl Jacquot, Chair, Patricia Vollendorf, Member for Labor, and Janet Waldron, Member for Management.

Appearances: Philip J. Eide, Eide, Gingras & Pate, P.C., for appellant, Victor Shehata. Colby J. Smith, Griffin & Smith, for appellees Salvation Army and Northern Adjusters.

Commissioners: John Giuchici, Philip Ulmer, and Kristin Knudsen.

*This decision has been edited to conform to technical standards for publication.*

By: Kristin Knudsen, Chair.

This appeal asks the commission to reverse the board's order that: (1) Victor Shehata reimburse his former employer, Salvation Army, for temporary total disability compensation received while he was working for another employer, and (2) Shehata pay Salvation Army \$14,567.05 in attorney fees and legal costs to obtain the reimbursement order. We reject Shehata's argument that Salvation Army is not entitled to a reimbursement order because Salvation Army waived reimbursement by not withholding under AS 23.30.155(j). We also reject Shehata's argument that the board's findings of fact are insufficient to support a reimbursement order because Salvation Army failed to show reasonable reliance on a false statement by Shehata. We affirm the board's decision and order.

### *1. Factual background and board proceedings.*

Victor Shehata worked for Salvation Army as a shelter operations manager.

Shehata was injured lifting food containers on December 22, 2003.<sup>1</sup> Shehata was treated conservatively in 2004, initially by Bilan Chiropractic<sup>2</sup> and then with Richard Gardner, M.D. Dr. Gardner referred him to Advanced Pain Clinic,<sup>3</sup> at which time Shehata was placed on temporary total disability compensation. Eventually, Shehata had surgery on his shoulder in July 2005 by Michael McNamara, M.D.<sup>4</sup> He was paid temporary total disability compensation from February 1, 2005,<sup>5</sup> through April 7, 2006, and permanent partial impairment compensation of \$15,390.00 on April 24, 2006, pursuant to a nine percent whole person rating of impairment.<sup>6</sup>

At the request of the employer, John M. Ballard, M.D., examined Shehata on April 7, 2006. Dr. Ballard reported that Shehata was medically stable insofar as the effects of the injury were concerned, that he had a permanent impairment rating of nine percent of the whole man, and that he could return to medium work.<sup>7</sup> Temporary total disability compensation was controverted on April 20, 2006 based on Dr. Ballard's report,<sup>8</sup> and permanent partial impairment compensation based on Dr. Ballard's rating was paid four days later.<sup>9</sup>

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<sup>1</sup> He reported having pain his left shoulder and upper arm. R. 0001.

<sup>2</sup> Mark A. Bilan, D.C., filed a claim for payment of \$400 in medical costs on September 27, 2004, R. 0011-12. This is the only claim for medical benefits filed prior to the petition for an order of reimbursement filed by Salvation Army, R. 0096-97. At a prehearing conference, Bilan was advised of the necessity of filing a request for hearing by filing an affidavit in accord with 8 AAC 45.070 within two years of the controversion of the claim. R. 0712. The record contains no request for hearing of the claim.

<sup>3</sup> R. 0433.

<sup>4</sup> R. 0405.

<sup>5</sup> Shehata eventually ended his employment in 2004 and received unemployment insurance benefits afterwards. Hrg. Tr. 19:13-25.

<sup>6</sup> R. 0009.

<sup>7</sup> R. 0491-500.

<sup>8</sup> R. 0008.

<sup>9</sup> R. 0009.

While he was receiving temporary total disability compensation, Shehata worked for Totem Rentals from September 12 through October 14, 2005. On Friday, October 14, 2005, Shehata told McKenna Wentworth, an adjuster for Salvation Army, that he was not working. The conversation was electronically recorded, and, unknown to Shehata, an investigator videotaped the appellant as he spoke on his cell phone to Wentworth outside the office of Totem Equipment. On October 17, 2005, Wentworth again recorded a conversation in which Shehata denied earning wages, unemployment, or social security disability. On November 14, 2005, Wentworth received written confirmation from Totem Equipment that Shehata had worked for Totem as clerical help at \$14.00/hour from September 12, 2005 to October 15, 2005.

On November 30, 2005, the attorney for Salvation Army filed a notice of controversion stating that Shehata inappropriately received compensation benefits from September 12, 2005 to October 15, 2005.<sup>10</sup> Written discovery requests were sent to Shehata on December 13, 2005,<sup>11</sup> and on December 15, 2005, he was sent a notice of his deposition, to take place January 9, 2006.<sup>12</sup>

Shehata appeared at the deposition with his attorney. He asserted he had a heart condition (he had a quadruple bypass operation in 2005) which made questioning stressful for him and that he was not required to submit to a deposition because no claim had been filed.<sup>13</sup> His attorney stated Shehata “would not be contesting a claim for temporary total disability” for the period and would answer the written questions; “then hopefully resolve this claim down the road.”<sup>14</sup> At the board hearing, Shehata testified that on January 9, 2006, he offered to apologize and pay back the compensation he received; however, he later qualified his testimony, explaining that

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<sup>10</sup> R. 0007.

<sup>11</sup> R. 0051-55.

<sup>12</sup> R. 0057-58.

<sup>13</sup> Shehata Depo. I, 4:16-5:24.

<sup>14</sup> Shehata Depo. I, 5:6-7; 6:1-2.

either, “we did talk about it, or between you [Salvation Army’s attorney] and Mr. Eide had spoken of it.”<sup>15</sup>

Salvation Army filed a petition seeking an order compelling a deposition on June 27, 2006.<sup>16</sup> Shehata responded, asserting he had provided the information he agreed to provide and “he disputes that he can be made to testify at a deposition under Alaska Workers’ Compensation law.”<sup>17</sup> Salvation Army filed a petition seeking an order compelling execution of releases of tax and employment information on July 24, 2006.<sup>18</sup> On the same day, Salvation Army filed its petition for a reimbursement order under AS 23.30.250(b)<sup>19</sup> and an affidavit of readiness for hearing on August 23, 2006.<sup>20</sup>

A pre-hearing conference was held August 28, 2006.<sup>21</sup> Shehata and his attorney did not attend, although the board’s designated officer conducting the conference noted that proper notice had been given.<sup>22</sup> The officer determined that the requested tax and employment evidence was reasonable and granted the petition to compel a release of information.<sup>23</sup> The officer set the petition for hearing on November 15, 2006, and directed filing of witness lists on October 16, 2006.<sup>24</sup> The board heard the petition on November 15, 2006, but held the record open for additional material.<sup>25</sup> After the board’s record closed, the member of the original board panel representing Industry,

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<sup>15</sup> Hrg. Tr. 28:17-29:4. The deposition transcript contains no mention of such a discussion, and there is no written offer of that date in the record.

<sup>16</sup> R. 0078-79.

<sup>17</sup> R. 0083.

<sup>18</sup> R. 0085-86.

<sup>19</sup> R. 0097.

<sup>20</sup> R. 0167.

<sup>21</sup> R. 0723.

<sup>22</sup> R. 0723.

<sup>23</sup> R. 0724. The record does not contain the requested information.

<sup>24</sup> *Id.*

<sup>25</sup> Hrg. Tr. 114:1-15.

Stephen T. Hagedorn, resigned.<sup>26</sup> The designated chair appointed member Janet Waldron to replace him and to listen to the tape of the hearing and review the record.<sup>27</sup>

## 2. *The board's decision.*

Salvation Army, the petitioner before the board, argued that it had met the four-part test to obtain a reimbursement order under AS 23.30.250(b) by a preponderance of the evidence as required by *DeNuptiis*.<sup>28</sup> The four-part test requires the employer to show that: (1) the employee made statements or representations; (2) the statements were false or misleading; (3) the statements were made knowingly; and (4) the statements resulted in the employee obtaining benefits. Salvation Army argued that the adjuster was compelled to pay benefits until it received confirmation that Shehata was working.

Shehata argued to the board that Salvation Army waived the legal right to reimbursement by not taking an offset against compensation under AS 23.30.155(j). Shehata also argued that the employer did not demonstrate fraud because the employer paid compensation although it knew, through the surveillance, that Shehata was working. Shehata argued that unless the misrepresentation "induced" the payment, no fraud occurred, notwithstanding the admitted misrepresentation.

The board noted Superior Court Judge Karen Hunt's decision that AS 23.30.250(b) is remedial in nature, intended only to "return both parties to the point they would have been had the fraud not occurred."<sup>29</sup> The board stated it interpreted AS 23.30.250(b) "to authorize forfeiture and reimbursement of only those benefits resulting from intentional false or misleading statements or representations."<sup>30</sup>

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<sup>26</sup> Stephen T. Hagedorn was appointed to the commission on March 1, 2007, as an employer representative. He took no part in deliberation of this appeal.

<sup>27</sup> R. 0728.

<sup>28</sup> *DeNuptiis v. Unocal Corp.*, 63 P.3d 272 (Alaska 2003).

<sup>29</sup> *Victor Shehata v. Salvation Army – Older Alaskans Program*, Alaska Workers' Comp. Bd. Dec. No. 07-0088, 4 (April 17, 2007)(D. Jacquot, Chair).

<sup>30</sup> *Victor Shehata*, Dec. No. 07-0088 at 5.

The board reasoned that temporary total disability compensation is payable during the time the worker is convalescent, wholly disabled, and unable to work due to a work-related injury. The board found, based on Shehata's admissions, that he misrepresented his ability to work to Wentworth. "We find it rather telling," the board said, "that the employee actually stated he was not working while on a break at work for Totem."<sup>31</sup> The board found Shehata "systematically attempted to mislead the employer concerning his ability to work from September 12, 2005 to October 15, 2005."<sup>32</sup> The board characterized Shehata's misrepresentations as "rather egregious and blatant" and he "aggressively hindered the employer's ability to investigate."<sup>33</sup> The amount of fees claimed by the employer was, the board found, the "result of the employee's zealous opposition."<sup>34</sup>

The board ordered Shehata to reimburse Salvation Army for compensation received from September 12, 2005 to October 15, 2005 "for fraudulently obtaining these benefits with false or misleading statements."<sup>35</sup> The board also ordered Shehata to pay Salvation Army's attorney fees and costs of \$14,567.05.<sup>36</sup> This appeal followed.

### *3. Arguments presented on appeal.*

Shehata argues that the board is mistaken as a matter of law because there is no evidence to support a finding that Shehata obtained compensation by making false statements to the employer. Shehata argues the employer did not rely on Shehata's statements to Wentworth when it paid him, therefore no fraud was committed. Absent fraud, Shehata argued, the only mechanism available to the employer to recover the payment was to withhold 20% from future compensation under AS 23.30.155(j). Since Shehata did not contest the right to withhold, and the employer failed to do so, Shehata

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<sup>31</sup> *Id.* at 6.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 7.

<sup>36</sup> *Id.*

claims Salvation Army implicitly waived the right to repayment. Finally, Shehata argues that the litigation was unnecessary and therefore no attorney fees should be due. Shehata asks that we reverse the board's decision and award him all necessary attorney fees and costs of the appeal.

Salvation Army argues that AS 23.30.250(b) does not require the employer to demonstrate "justifiable reliance" on a statement, only that the false statement or misrepresentation resulted in the payment of benefits. Salvation Army further argues that the attempt to interject a fifth element into the requirements of the statute is contrary to *DeNuptiis*. Salvation Army also argues that the board had sufficient evidence to find that Shehata knowingly made false statements to Wentworth for the purpose of continuing his benefits, and that his false statements resulted in their continuance. Because Shehata was obstructive during the subsequent efforts of Salvation Army to obtain information about the full extent of Shehata's work activities, Salvation Army argues, the board was correct to award the full attorney fees. Salvation Army asks that we affirm the board's decision and dismiss the appeal.

#### *4. Discussion.*

##### *a. Standard of Review.*

When reviewing appeals from final board decisions, the credibility determinations by the workers' compensation board of a witness before it are binding on the commission.<sup>37</sup> If there is substantial evidence in light of the whole record to support the board's findings, the commission must uphold the board's findings. Because the commission makes its decision based on the record before the board, the briefs filed on appeal, and oral argument to the commission,<sup>38</sup> no new evidence may be presented to the commission regarding the merits of the appeal. Whether the evidence the board relied on is "substantial evidence," and whether the board applied the proper legal

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<sup>37</sup> AS 23.30.128(b).

<sup>38</sup> AS 23.30.128(a).

analysis to the facts, are matters of law to which we are required to apply our independent judgment.<sup>39</sup>

*b. AS 23.30.250(b) is a statutory remedy, not a common law fraud action.*

Shehata argues that no fraud occurred because the employer's adjuster, Wentworth, did not actually rely on the truthfulness of his statement that he was not working and had not worked when she issued his next temporary total disability compensation check ten days later. Shehata relies on the Supreme Court's decision in *Jarvis v. Ensminger*, listing the essential elements of an action for fraud.<sup>40</sup> Salvation Army argues that AS 23.30.250(b) is not a mere codification of the tort of intentional misrepresentation, but is, as Judge Hunt said, a "remedial statute" intended to restore the parties to where they would have been had the misrepresentation not occurred. Based on the Supreme Court's reading of the requirements of AS 23.30.250(b) in *Municipality of Anchorage v. Devon*, we agree that the statutory remedy provided in AS 23.30.250(b) is, in and of itself, complete, and requires neither a showing of "damages" nor "justifiable reliance." It is enough if the employer shows: (1) the employee made statements or representations; (2) the statements or representations were false or misleading; (3) the statements or representations were made knowingly; and (4) the statements or representations resulted in the employee obtaining a benefit.<sup>41</sup>

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<sup>39</sup> AS 23.30.128(b).

<sup>40</sup> 134 P.2d 353, 363 (Alaska 2006) ("The essential elements of that tort [of intentional misrepresentation] are: (1) a false representation of fact, (2) knowledge of the falsity of the representation, (3) intention to induce reliance, (4) justifiable reliance, and (5) damages.") The statement occurs in the context of the Court's determination that where an independent duty is breached, such as the duty to refrain from intentional misrepresentation, a plaintiff has an action in tort, notwithstanding that the conduct is also a breach of contract. Jarvis alleged that Ensminger knowingly misrepresented his rights under an employment contract, and his plans to purchase shares in the trust that operated the business, and thereby induced Jarvis to rewrite his employment contract and accept a purchase option. The court held that Jarvis made out a misrepresentation claim, alleging a breach of a tort duty.

<sup>41</sup> *Municipality of Anchorage v. Devon*, 124 P.3d 424, 429 (Alaska 2005).

The statutes of the Alaska Workers' Compensation Act provide a remedy for an employee's work-related injury and disability without regard to fault by the employer or the employee. The employer is obligated by the state to pay compensation and the employee is obligated by the state to accept it in lieu of a tort remedy. The concept of civil fraud is based on the idea that a person owes a duty to refrain from false statements when persuading another person to agree to a legal obligation. That is why it is important to show "reasonable reliance" on the false statement in the decision to agree to the legal obligation. In workers' compensation, the employer is not induced to enter into the obligation to pay benefits by the employee's false statements; the legal obligation is imposed by the state when the employer hires the employee.<sup>42</sup>

Reliance, in the sense of subjectively believing a statement to be true and acting on that belief, is not a necessary element of the statute. It is but one means of showing that the false statement resulted in the employee obtaining a benefit. A false statement or misrepresentation that delays the discovery of an event that would terminate compensation, even if not believed, still results in the employee obtaining compensation, because the employer, in the absence of evidence sufficient to overcome the presumption, is obligated to continue payment. Similarly, an employee's knowing misrepresentation through silence in the face of an affirmative obligation to disclose information that would affect a right to compensation may result in obtaining benefits because the employer is obligated to continue payment in the absence of evidence.

Shehata concedes that he made false statements to Wentworth on October 14 and 17, 2005, regarding his work for Totem in the preceding four weeks. He concealed from her the fact he was working for wages while claiming to be totally disabled and unable to earn wages. He concedes he knew the statements to be false. Although Wentworth knew that Shehata probably was speaking to her on a cell phone standing outside Totem on October 14, 2005, she did not have confirming evidence that Shehata had been working – his presence at the Totem building could have been explained away. As the board's decision in *Municipality of Anchorage v. Devon* illustrates,

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<sup>42</sup> AS 23.30.020.

surveillance tapes may not be found to be compelling evidence by the board.<sup>43</sup> Shehata's false statements and concealment of his work status, when he had an affirmative duty to disclose it, could be found to result in the continuing payment of compensation, first, because the employer was permitted to continue in a belief that Shehata was not working, and second, because it delayed Salvation Army's discovery of evidence that confirmed Wentworth's suspicion and supported a controversion. We find no error in the board's application of AS 23.30.250(b).

*c. The employer did not waive a right to obtain a reimbursement order by not recovering an overpayment under AS 23.30.155(j).*

Shehata argues that the employer waived the right to obtain a recovery because it could have recovered its overpayment of benefits through withholding a part of continuing payments under AS 23.30.155(j) and failed to do so. Shehata phrases this argument in two ways: first, by suggesting that the employer might have used "self-help" as permitted by AS 23.30.155(j) to recover the money paid, therefore, Salvation Army's decision to obtain a reimbursement order and attorney fees, was retaliatory and intended to coerce Shehata into settlement; second, by arguing that there was no fraud, therefore the only means of recovery was through withholding, and by failing to withhold, Salvation Army waived a right to recovery.

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<sup>43</sup> 124 P.3d at 430. The tapes in question included images of Devon riding a Harley Davidson motorcycle, maintaining a softball field, dragging and lifting a harrow, playing softball, starting a pitching machine with a rope starter with both hands, batting, throwing and catching a softball, notwithstanding his claims of significant pain and limited mobility in his right arm and shoulder, and excruciating pain in his elbow if he tried to straighten it, or his denial of all physical activities. *Id.* at 426. The Supreme Court said of the board's decision to believe Devon, "[I]t is not unthinkable that, upon *de novo* review, we would be less inclined [than the board] to credit the testimony of a witness who admitted that he made statements . . . that were 'if not false, a distortion of the truth,' who had previously been convicted of dishonesty, and who lied about being a member of a workers' union in a deposition. However, we are bound by both the deferential standard of review that we apply to the board's decisions and by statute; AS 23.30.122 states that '[t]he board has the *sole* power to determine the credibility of a witness.'" *Id.* at 431. (Emphasis original).

We reject Shehata's argument that an employer must use the withholding permitted under AS 23.30.155(j) to recover an overpayment resulting from knowing misrepresentation or waive reimbursement. AS 23.30.155(j) permits an employer to recover, *without interest*, sums that are inadvertently overpaid, as when an employee's compensation rate is retroactively adjusted for a social security retirement offset or as when a compensation rate is improperly calculated due to adjuster error. It ameliorates the effect of errors on the employer, by allowing an opportunity to recover the overpayment, and on the employee, by limiting the means of recovery to a deduction from future payments instead of requiring immediate return of the overpayment and by barring the employer from obtaining recovery if no future compensation is forthcoming. Thus, the employer bears the risk that an erroneous overpayment will not be repaid in full and absorbs the cost of the delay in return of the overpaid money by not receiving interest. AS 23.30.155(j) also makes no provision for recovery of benefits other than compensation and benefits paid to providers or for recovery in the event that no future compensation is owed. Since the purpose of AS 23.30.155(j) is clearly to *lessen* the impact of overpayment on the employee, the employer should not be required to forego costs of recovery and limit itself to recovery of the overpayment under AS 23.30.155(j), if it is available, when the overpayment is the result of the employee's false statements or misrepresentations.

Shehata argues that the use of AS 23.30.250(b) in this case was intentionally coercive and malicious. As evidence of malice, Shehata points to the attorney fees claimed by Salvation Army, alleging they are disproportionate to the compensation reimbursed. While it is possible that an employer's demand for attorney fees associated with a reimbursement order may be so excessive in relation to the benefit obtained as to be unreasonable, it is for the board, not the commission, to decide whether, in the circumstances of the case and the facts established on the record, the employer inflated its attorney fees, or engaged in unnecessary work, for the purpose of coercing the employee, or whether the attorney fees were reasonable. AS 23.30.250(b) does not only enable the employer to recover benefits paid as a result of the employee's false statements or misrepresentation, it also requires the person who made the false

statements to make the employer whole. Making the employer whole means more than simply repaying the benefit; it means compensating the employer for the cost of securing a reimbursement order *and the defense of the claim*.<sup>44</sup> Thus, in this case, the board may have considered whether the employer's efforts to obtain information regarding the full scope of the employee's misrepresentation of his ability to earn wages was a reasonable part of defense of the claim, as well as the employer's direct costs of securing a reimbursement order of a relatively small amount of compensation. We find no legal error in the board's application of AS 23.30.250(b).

In the preceding discussion, we rejected Shehata's argument that AS 23.30.250(b) requires a showing of the elements of common-law civil fraud. Therefore, we need not consider whether, in the absence of fraud, the employer is limited to a recovery under AS 23.30.155(j), and, by failing to withhold under that statute, the employer waived its right to any recovery.

*d. The board's findings are supported by substantial evidence in light of the record as a whole.*

Having determined that the board's legal analysis was not erroneous, we consider whether the board's findings of fact are supported by substantial evidence in light of the whole record. On review of the whole record, we find that the evidence relied on by the board was sufficient to allow a reasonable mind to conclude that Shehata knowingly concealed his job at Totem, knowingly lied to Wentworth about his ability to work and earnings, and that he did so in order to delay, if not prevent, the discovery of his ability to work and to continue to receive compensation or avoid having to repay the compensation he received while employed. We find that there is evidence in the record that Shehata (1) removed his name from a family business prior to answering interrogatories inquiring into his business activities; (2) refused, delayed, or cooperated minimally with discovery efforts regarding the scope of his ability to work;

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<sup>44</sup> AS 23.30.250(b) provides in part: "Upon entry of an order authorized under this subsection, the board shall also order that person to pay all reasonable costs and attorney fees incurred by the employer and the employer's carrier in obtaining an order under this section and in defending any claim made for benefits under this chapter."

and (3) opposed signing releases and failed to attend a pre-hearing conference addressing his opposition to discovery. This is evidence on which the board may have relied to find that the fees were reasonable, because some part of the fees claimed were attributable to Shehata's hindrance of Salvation Army's investigation and opposition to the petition for a reimbursement order. We note there is no assertion that the claimed hourly rate was excessive, that charges were not supported by the evidence of the attorney's work, or that they were attributable to some other case. We conclude that the board's findings of fact are supported by substantial evidence in light of the whole record.

*5. Conclusion.*

We find that the board's findings of fact are supported by substantial evidence in light of the whole record; we adopt the board's findings. We conclude the board did not err as a matter of law in its use of the four-part test adopted by the Supreme Court in *Municipality of Anchorage v. Devon*. We conclude that the board did not err as a matter of law by refusing to consider the employer's reimbursement waived through failure to exercise a right to offset under AS 23.30.155(j).

Having concluded the board did not err in its application of the law and that its findings are supported by substantial evidence in light of the whole record, we AFFIRM the board's decision.

Date: Dec. 20, 2007

ALASKA WORKERS' COMPENSATION APPEALS COMMISSION



*Signed*

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John Giuchici, Appeals Commissioner

*Signed*

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Philip Ulmer, Appeals Commissioner

*Signed*

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Kristin Knudsen, Chair

APPEAL PROCEDURES

This is a final decision on this appeal. The appeals commission affirmed (approved) the board's decision that granted the Salvation Army's petition for a reimbursement order

and attorney fees. The appeals commission's decision ends all administrative proceedings on the Salvation Army's petition. It does not affect any other pending claims or petitions in the employee's case at the Workers' Compensation Board. This decision becomes effective when filed in the office of the appeals commission unless proceedings to reconsider it or to appeal to the Alaska Supreme Court are instituted.

If you wish to appeal this decision, proceedings to appeal must be instituted (started) in the Alaska Supreme Court within 30 days of the date this final decision is mailed or otherwise distributed to you. The appeal must be brought by a party-in-interest against the commission and all other parties to the proceedings before the commission, as provided by the Alaska Rules of Appellate Procedure. To see the date this decision is mailed or otherwise distributed, look at the clerk's Certificate in the box below.

If you wish the commission to reconsider its decision, you must file a written request for reconsideration within 30 days of the date of service (mailing) of the decision. If a request for reconsideration of this final decision is filed on time with the commission, any proceedings to appeal, if appeal is available, must be instituted within 30 days after the reconsideration decision is mailed or otherwise distributed to the parties, or, if the commission does not issue an order for reconsideration, within 60 days after the date this decision is mailed to the parties, whichever is earlier. AS 23.30.128(f) lists the reasons you may request reconsideration.

If you wish to appeal this decision to the Alaska Supreme Court, you should contact the Alaska Appellate Courts immediately:

Clerk of the Appellate Courts  
303 K Street  
Anchorage, AK 99501-2084  
Telephone 907-264-0612

#### RECONSIDERATION BY THE APPEALS COMMISSION

A party may ask the appeals commission to reconsider this decision by filing a motion requesting reconsideration in accordance with 8 AAC 57.230. The motion requesting reconsideration must be filed with the appeals commission within 30 days after delivery or mailing of this decision.

#### CERTIFICATION

I hereby certify that the foregoing is a full, true, and correct copy of Alaska Workers' Compensation Appeals Commission Decision No. 063, the final decision and order in the matter of Victor Shehata v. Salvation Army and Northern Adjusters, Appeal No. 07-021, dated and filed in the office of the Alaska Workers' Compensation Appeals Commission in Anchorage, Alaska, this 20<sup>th</sup> day of December, 20 07.

Signed  
L. Beard, Appeals Commission Clerk

<p style="text-align: center;"><u>Certificate of Distribution</u></p> <p>I certify that a copy of this Decision No. 063, the Final Decision and Order in AWCAC Appeal No. 07-021, was mailed on <u>12/20/07</u> to Eide &amp; Smith at their addresses of record and faxed to Eide, Smith, Director WCD, &amp; AWCB Appeals Clerk.</p> <p style="text-align: center;"><u>Signed</u> <u>12/20/07</u> L. Beard, Appeals Commission Clerk Date</p>
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