

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO DENY PETITION FOR RECONSIDERATION

The Board has considered the Proposed Decision in this case involving benefits payable upon the death of member David Duran on March 11, 2014, and competing claims filed by Respondent Chane Billow, Respondent Chase Billow, and Respondent Jessica Crane.

On November 16, 2016, the Board adopted the Proposed Decision.

Respondent Chane Billow submitted Respondent's Argument on November 4, 2016. Respondent's Argument was included, reviewed and considered by the Board at the November 16, 2016 Board meeting.

Respondent Chane Billow now submits a Petition for Reconsideration which is substantially similar to the Respondent's Argument previously considered and rejected by the Administrative Law Judge (ALJ) and the Board. No new arguments or evidence are included in the Petition for Reconsideration.

Respondent Chane Billow argues in his Petition for Reconsideration that the ALJ erred by utilizing an incorrect legal standard, and that a court determination of whether there was undue influence is needed before a decision on the payment of death benefits can be made. Respondent is incorrect. The ALJ carefully considered all evidence at the hearing and found against Respondents Chane and Chase Billow. Even if all of the factors urged by Respondent Chane Billow in his Petition for Reconsideration are taken into account, the result does not change – the evidence is insufficient to create a presumption of undue influence.

The ALJ specifically found that Mr. Duran had all of his faculties, exercised his own free will, and was not isolated when the Designation was executed. Further, the ALJ found that Respondent Jessica Crane did not exercise authority or control over Mr. Duran.

With respect to Respondent's disagreement with the ALJ's findings of fact and legal analysis, it is clear from the Proposed Decision that evidence was taken on the underlying facts, numerous exhibits were submitted, and a hearing was completed to fully examine each of the three Respondents' claims. The ALJ simply found against Respondents Chane and Chase Billow. Respondent has not raised any new evidence or change in circumstances in his Petition which would warrant reconsideration.

For all of the reasons stated above, staff argues the Board deny the Petition for Reconsideration and uphold its decision.

Because the Decision applies the law to the salient facts of this case, the risks of denying the Request for Reconsideration are minimal. Respondent may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

December 21, 2016


ELIZABETH YELLAND
Senior Staff Attorney