

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF  
INDUSTRIAL ACCIDENTS**

**BOARD NOS. 029333-01  
008905-08**

Gordon Holden  
Town of Wilmington  
MEGA Property & Casualty Group  
Town of Wilmington

Employee  
Employer  
Self Insurance Group  
Self-insurer

**REVIEWING BOARD DECISION**  
(Judges Fabricant, Horan and Levine)

The case was heard by Administrative Judge Bean.

**APPEARANCES**

Daniel P. Napolitano, Esq., for the employee  
John J. Canniff, III, Esq., for the self insurance group  
Paul M. Moretti, Esq., for the self-insurer on appeal<sup>1</sup>

**FABRICANT, J.** In Holden v. Town of Wilmington., 25 Mass. Workers' Comp. Rep. \_\_\_\_ (May 20, 2011), we held that the self-insurer was denied its right to representation and not properly joined to the case. We vacated the decision and recommitted the case for a hearing de novo before a different administrative judge. We further found that Attorney Canniff violated § 14(2) and we retained jurisdiction of the case for the sole purpose of determining the "whole costs of the proceedings and attorneys' fees" to be assessed pursuant to § 14(2). Id. See Packard v. Swix Sport USA, Inc., 23 Mass. Worker's Comp. Rep. 5 (2009); Ferreira v. Forrest Homes of Mass., 22 Mass. Worker's Comp. Rep. 203 (2008).

We requested that within twenty-one days of the filing date of our decision in Holden, supra, counsel for the self-insurer and counsel for the employee submit to this board, and serve upon Attorney Canniff, affidavits of fees and costs associated with all post-conference proceedings. Attorney Canniff was granted

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<sup>1</sup> The Town of Wilmington was not represented at the hearing.

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fourteen days from the date of receipt of said affidavits to challenge the amount of the asserted costs and fees.

On June 9, 2011, separate submissions were filed by counsel for the employee and counsel for the self-insurer, each containing affidavits and a record of the time spent on post conference matters. On June 17, 2011, counsel for Attorney Canniff filed a written response stating that, "Attorney Canniff's review of the affidavits indicates that the submissions are reasonable, and thus, [he] will not dispute or second guess the numerical calculations."

Accordingly, pursuant to § 14 (2), we award the following amounts to be paid by Attorney Canniff:

1. To the Employee: \$7,040.00.
2. To the self-insurer: \$16,880.39

So ordered.

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Bernard W. Fabricant  
Administrative Law Judge

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Mark D. Horan  
Administrative Law Judge

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Frederick E. Levine  
Administrative Law Judge

Filed: **July 19, 2011**