NY TRANSPORTATION WORKERS' COMPENSATION TRUST

FINANCIAL STATEMENTS

December 31, 2022

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INDEPENDENT AUDITORS' REPORT

The Trustees
NY Transportation Workers' Compensation Trust

Qualified Opinion

We have audited the balance sheets of NY Transportation Workers' Compensation Trust (the Trust) as of December 31, 2022 and 2021, and the related statements of comprehensive income, changes in members' equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, except for the effects of the matters discussed in the Basis for Qualified Opinion section of our report, the accompanying financial statements present fairly, in all material respects, the financial position of the Trust as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Qualified Opinion

As more fully described in Note 1 to the financial statements, the Trustees voluntarily terminated all in force policies of the Trust as of December 31, 2008. The accompanying financial statements have been prepared in accordance with accounting principles applicable to a going concern, and include the amounts applicable to a trust able to continue operations indefinitely into the future. Accounting principles generally accepted in the United States of America require that assets and liabilities be carried on a liquidation basis, and that future revenues and expenses expected to be realized be accrued when a trust is in the process of liquidation or liquidation is imminent. The principal effects of that departure from U.S. generally accepted accounting principles on the financial statements has not been determined.

Additionally, the accompanying financial statements do not disclose certain information relative to the liability for unpaid losses and loss adjustment expenses. In our opinion, disclosure of this information is required by accounting principles generally accepted in the United States of America.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Trust, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our qualified audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Trust's ability to continue as a going concern for one year after the date that the financial statements are issued.

Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control. Accordingly, no such opinion is expressed.

- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.

- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Trust's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Lumsden & McCormick, LLP

March 30, 2023

Balance Sheets

December 31,	2022	2021
Assets		
Cash	$ 1,435,618	$ 3,138,797
Restricted cash (Note 1)	492,220	492,065
Investments (Note 3)	3,612,502	1,868,508
Assessments receivable, net (Note 4)	13,435,061	14,495,005
Second injury fund receivable (Note 1)	209,709	235,417
Reinsurance receivable (Note 1)	7,126	18,067
Reinsurance recoverable (Note 1)	3,078,106	3,451,274
Accrued investment income	8,635	2,976
Prepaid expenses	172,133	166,650
	$ 22,451,110	$ 23,868,759
Liabilities and Members' Equity		
Liabilities:		
Unpaid losses and loss adjustment expenses (Note 5):		
Case-basis reserves	$ 9,258,000	$ 10,979,900
Incurred but not reported	1,659,000	2,211,100
Unallocated loss adjustment expenses	704,000	728,000
	11,621,000	13,919,000
Accounts payable	324,860	2,237
Accrued Workers' Compensation Board assessments	173,000	123,000
Deferred income taxes	2,257,577	2,353,512
	14,376,437	16,397,749
Members' equity:		
Retained earnings	8,109,177	7,472,114
Accumulated other comprehensive loss	(34,504)	(1,104)
	8,074,673	7,471,010
	$ 22,451,110	$ 23,868,759

See accompanying notes.

Statements of Comprehensive Income

For the years ended December 31,	**2022**	2021
Revenues:		
Deficit assessments	**$ -**	$ 14,831,086
Investment income	**62,482**	17,899
	62,482	14,848,985
Expenses:		
Incurred losses and loss adjustment (Note 5)	**(1,342,671)**	629,984
Workers' Compensation Board assessments	**61,994**	(100,450)
Administrative fees	**122,916**	124,515
Trustee fees	**36,000**	35,500
Legal, accounting, and actuary fees	**182,583**	131,299
Insurance	**127,317**	98,231
Collection fees	**47,412**	34,559
Bank and investment management fees	**7,419**	5,209
Bad debts (recovery)	**(61,451)**	-
	(818,481)	958,847
Income before income taxes	**880,963**	13,890,138
Provision for income taxes (Note 6)	**243,900**	3,322,800
Net income	**637,063**	10,567,338
Other comprehensive loss:		
Unrealized holding loss on investments (net of $11,735 and $5,035 of income taxes)	**(33,400)**	(14,329)
Comprehensive income	**$ 603,663**	$ 10,553,009

See accompanying notes.

Statements of Changes in Members' Equity

For the years ended December 31, 2022 and 2021

	Total	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Income (Loss)
Balance at January 1, 2021	$ (3,081,999)	$ (3,095,224)	$ 13,225
Net income	10,567,338	10,567,338	-
Other comprehensive loss:			
Unrealized holding loss on investments (net of $5,035 of income taxes)	(14,329)	-	(14,329)
Balance at December 31, 2021	**7,471,010**	**7,472,114**	**(1,104)**
Net income	**637,063**	**637,063**	**-**
Other comprehensive loss:			
Unrealized holding loss on investments (net of $11,735 of income taxes)	**(33,400)**	**-**	**(33,400)**
Balance at December 31, 2022	**$ 8,074,673**	**$ 8,109,177**	**$ (34,504)**

See accompanying notes.

Statements of Cash Flows

For the years ended December 31,	2022	2021
Operating activities:		
Net income	$ 637,063	$ 10,567,338
Adjustments to reconcile net income to net cash flows from operating activities:		
Deferred income taxes	(84,200)	3,449,000
Bad debts expense (recovery)	(61,451)	-
Changes in other operating assets and liabilities:		
Assessments receivable	1,121,395	(11,285,530)
Second injury fund receivable	25,708	81,189
Reinsurance receivable and recoverable	384,109	505,729
Accrued investment income	(5,659)	5,571
Prepaid expenses	(5,483)	(48,869)
Unpaid losses and loss adjustment expenses	(2,298,000)	(613,800)
Accounts payable	322,623	911
Accrued Workers' Compensation Board assessments	50,000	(106,000)
Net operating activities	86,105	2,555,539
Investing activities:		
Proceeds from sale of investments	1,320,000	1,255,000
Purchase of investments	(3,109,129)	(1,052,324)
Net investing activities	(1,789,129)	202,676
Change in cash (including restricted cash)	(1,703,024)	2,758,215
Cash (including restricted cash) - beginning	3,630,862	872,647
Cash (including restricted cash) - ending	$ 1,927,838	$ 3,630,862
Supplemental cash flows information:		
Income taxes paid (refunds received)	$ 5,445	$ (131,176)

See accompanying notes.

Notes to Financial Statements

1. Summary of Significant Accounting Policies:

Organization:

NY Transportation Workers' Compensation Trust (the Trust) is a self-insurance trust established on December 1, 2000. Its member employers consist of transportation merchants in the State of New York. The Trust provided workers' compensation insurance for employees of its members and is administered by NCA Comp, Inc., an unrelated organization.

The Trust is not responsible for any claim obligations incurred by its members before entering the Trust.

Cessation of Providing Workers' Compensation Insurance:

The Trustees voluntarily terminated all in force policies of the Trust as of December 31, 2008 due to changes in the workers' compensation insurance regulatory environment in New York State. In 2014, 2015, 2016, and 2021, the Trust imposed assessments on members to help pay existing and future obligations related to claims incurred through December 31, 2008. Deficit assessment revenue is recognized when assessed at the net amount ultimately expected to be collected from members. The Trust allows for payment in a lump sum or in monthly installments, not to exceed four years. If necessary, the Trust will impose additional assessments on members in future years. In the event the Trust cannot meet its obligations, the Trustees will resign, and the Trust will transfer administration of the Trust to the New York State Workers' Compensation Board (WCB).

Subsequent Events:

The Trust has evaluated events and transactions for potential recognition or disclosure in the financial statements through March 30, 2023 (the date the financial statements were available to be issued).

Cash:

Cash in financial institutions may exceed insured limits at various times during the year and subject the Trust to concentrations of credit risk.

Restricted cash represents balances included in an escrow account to be used exclusively for a possible future assumption of liability policy transaction pursuant to agreements with certain members.

Investments:

Investments include "available for sale" U.S. government and agency bonds stated at fair value on a recurring basis as determined by quoted prices in active markets. Unrealized holding gains and losses are presented as a separate component of accumulated other comprehensive income, net of deferred income taxes. Realized gains and losses on the sale of investments are determined using the specific identification method.

Assessments Receivable:

Assessments receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a charge to bad debts expense and a credit to allowance for doubtful accounts based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to allowance for doubtful accounts and a credit to assessments receivable.

Second Injury Fund Receivable:

When a claim is approved as eligible under New York State's second injury fund (Section 15-8), the Trust is reimbursed for additional losses for previously injured employees. At December 31, 2022 and 2021, amounts which have yet to be repaid by New York State to the Trust on paid losses eligible for reimbursement under the second injury fund totaled $209,709 and $235,417.

Unpaid Losses and Loss Adjustment Expense:

Unpaid losses and loss adjustment expense represents undiscounted estimates of future payments necessary to settle all insurance claims for reported losses and estimates of incurred but not reported losses, including both allocated and unallocated loss adjustment expenses. These unpaid losses have been determined in consultation with independent actuaries and are based on industry experience and trends. However, such estimates may be more or less than the amount ultimately paid when the claims are settled. Changes in the estimated liability are charged or credited to operations as the estimates are revised.

Management believes the liability for unpaid losses and loss adjustment expense is adequate to cover the ultimate cost of claims incurred through December 31, 2008.

Litigation costs with respect to claims arising from insurance coverages are considered in establishing the estimated liability for unpaid losses and loss adjustment expenses.

Reinsurance:

The Trust reinsured certain portions of its liability with insurance coverages to limit the amount of individual and aggregate losses. The liability of the Trust is limited on an individual loss basis to the first $300,000 per occurrence for accidents occurring before January 1, 2002. For accidents occurring from January 1, 2002 through December 31, 2003, the self-insurance retention was $400,000 per occurrence. For accidents occurring from January 1, 2004 through December 31, 2005, the self-insurance retention was $600,000 per occurrence. For accidents occurring from January 1, 2006 through December 31, 2008, the self-insurance retention was $750,000 per occurrence.

The Trust also reinsured certain portions of its liability to limit the amount of aggregate losses per policy year. The liability of the Trust is limited on an aggregate loss basis from December 1, 2000 through December 31, 2008 based on a percentage of total annual members' covered payroll (aggregate retention). Aggregate annual losses that exceed the aggregate retention are insured for unlimited amounts (statutory) for accidents occurring before January 1, 2002, $10,000,000 for accidents occurring January 1, 2002 through December 31, 2003, and $5,000,000 for accidents occurring January 1, 2004 through December 31, 2008.

Insurance ceded by the Trust does not relieve the Trust of its primary liability for claims. Accordingly, a contingent liability exists with respect to reinsurance which would become an actual liability in the event the reinsuring company might be unable to meet its obligation to the Trust under existing reinsurance agreements.

Recoverable incurred losses and loss adjustment expenses under the reinsurance contracts not yet paid totaled $3,078,106 and $3,451,274 at December 31, 2022 and 2021. Amounts of incurred losses and loss adjustment expenses receivable under the reinsurance contracts that have been paid totaled $7,126 and $18,067 at December 31, 2022 and 2021.

At December 31, 2022 and 2021, the liability for unpaid losses and loss adjustment expenses was not reduced as a result of insurance ceded.

Workers’ Compensation Board Assessments:

In April 2011, the New York State Governor enacted legislation that reduced WCB assessments due from insolvent and inactive trusts. Specifically, the new legislation eliminated assessments for 151, 15-8, 25-A, and IDP for periods subsequent to December 31, 2010. However, the amendments to the law did not eliminate the self-insurance assessment pursuant to Section 50-5 of the Workers’ Compensation Law. Accordingly, the Trust has reflected a liability on the accompanying balance sheets for estimated amounts to be paid for Section 50-5 in subsequent years relative to the unpaid losses and loss adjustment expense.

Income Taxes:

The provision for income taxes is based on pretax financial accounting income. Deferred assets and liabilities are recognized for the expected future tax consequences of temporary differences between the tax and financial statement bases of assets and liabilities. Temporary differences arise primarily because the Trust follows the cash basis of accounting for income tax return purposes. Additionally, the Trust recognizes future tax benefits of net operating loss carryforwards to the extent that realization of such benefits is more likely than not.

Use of Estimates:

The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

2. Letter of Credit:

The Trust has a $1,125,000 surety bond to provide security for payment of workers’ compensation claims, which is collateralized by the Trust’s investments balance. This surety bond is required by the WCB in lieu of the Trust having a cash deposit of the same amount with the WCB.

3. Investments:

December 31, 2022	Cost	Net Unrealized Holding Loss	Market Value
Available-for-sale securities:			
U.S. Government and agency obligations	$ 3,659,129	$ (46,627)	$ 3,612,502

December 31, 2021	Cost	Net Unrealized Holding Loss	Market Value
Available-for-sale securities:			
U.S. Government and agency obligations	$ 1,870,000	$ (1,492)	$ 1,868,508

Aggregate maturities of debt securities at December 31, 2022 are:

	Cost	Market Value
Due in less than one year	$ 2,735,675	$ 2,709,948
Due in one year through five years	923,454	902,554
	$ 3,659,129	$ 3,612,502

Sales proceeds and gross realized gains on securities classified as available for sale were:

	2022	2021
Sales proceeds	$ 1,320,000	$ 1,255,000
Gross realized gains	$ -	$ -

4. Assessments Receivable:

	2022	2021
Assessments receivable	$ 14,791,061	$ 15,851,005
Less allowance for doubtful accounts	1,356,000	1,356,000
	$ 13,435,061	$ 14,495,005

5. Unpaid Losses and Loss Adjustment Expenses:

	2022	2021
Balance - beginning of year	$ 13,919,000	$ 14,532,800
Incurred related to:		
Current year	-	-
Prior years	(1,342,671)	629,984
Total incurred	(1,342,671)	629,984
Losses to be covered under reinsurance	(329,873)	(449,231)
Paid related to:		
Current year	-	-
Prior years	(625,456)	(794,553)
Total paid	(625,456)	(794,553)
Balance - end of year	$ 11,621,000	$ 13,919,000

The unpaid losses and loss adjustment expense is composed of the following:

	2022	2021
Case-basis reserves	$ 9,258,000	$ 10,979,900
Incurred but not reported	1,659,000	2,211,100
Unallocated loss adjustment expenses	704,000	728,000
	$ 11,621,000	$ 13,919,000

6. Income Taxes:

	2022	2021
Current provision (benefit):		
Federal	$ 254,800	$ (131,200)
State	73,300	5,000
	328,100	(126,200)
Deferred provision (benefit):		
Federal	(68,300)	2,728,400
State	(15,900)	897,800
Valuation allowance adjustment	-	(177,200)
	(84,200)	3,449,000
	$ 243,900	$ 3,322,800

The Trust's effective tax rate varies from the statutory federal income tax rate primarily as a result of state taxes net of federal benefits, adjustments to valuation allowances relative to deferred tax assets, and the recognition of a current tax benefit of $131,200 in 2021 for refundable alternative minimum tax credits.

Deferred income taxes on the balance sheets at December 31, 2022 and 2021 are as follows:

	2022	2021
Assets	$ 12,123	$ 174,788
Liabilities	(2,269,700)	(2,528,300)
	$ (2,257,577)	$ (2,353,512)

A valuation allowance has not been recorded against the deferred tax asset since management believes the Trust will generate sufficient taxable income in the future to realize all the recorded benefit of the deferred tax asset. The amount of the deferred tax asset considered realizable, however, could be reduced in the near term if estimates of future taxable income during the carryforward period were reduced.

7. Contingencies:

The Trust provided employer liability insurance to its members. The Trust is not aware of any asserted or pending claims against any of its members.