

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board, one member dissenting, finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

DISSENTING OPINION OF KIM D. SCHMETT:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision only as to the Employer's participation, as the Claimant did not appeal this matter. I would find the Employer sufficiently participated in the Fact-finding Interview by providing material and relevant documentation to support their case. For this reason, I would conclude the Employer's account should not be charged with the Claimant's overpayment.

Kim D. Schmett

AMG/fnv