



request for a hearing, otherwise the director will dismiss the employer's request for a hearing. See OAR 836-043-0170(2)-(3) & (9).

On 10/8/07, the director timely received from the employer the completed petition.

On 10/11/07, the director referred the request to the Office of Administrative Hearings (OAH).

On 10/17/07, OAH scheduled a hearing to be conducted on 1/24/08.

On 2/12/08, OAH rescheduled the hearing to be conducted on 4/9/08.

On 4/11/08, OAH rescheduled the hearing to be conducted on 6/2/08.

On 6/2/08, OAH conducted a hearing. The hearing was conducted by Rick Barber, an administrative law judge of OAH. The employer appeared and was represented at the hearing by June Harvey, as the employer's authorized representative pursuant to OAR 836-005-0112 and OAR 137-003-0555. The employer called Thomas Harvey and Sarah Temple as its witnesses. The employer offered Exhibits E1 to E17 as its documentary evidence all of which were admitted into the record. The insurer appeared and was represented at the hearing by Ethan R. Hasenstein, an Assistant Attorney General assigned to represent the insurer. The insurer called Karla Pattis and Teresa Smith as its witnesses. The insurer offered Exhibits A1 to A11 as its documentary evidence all of which were admitted into the record.

On 8/12/08, OAH issued a proposed order. The proposed order recommended that the director affirm the billing. The order concluded that the billing correctly included compensation paid by the employer to Anthony Bray during the audit period for the same reasons in a related case for the previous audit period. See *In re Harvey's Selective Logging, Inc.*, case number INS 06-09-007, final order dated 3/24/08, concluding the billing correctly included the compensation paid to Bray. The order also concluded that the billing correctly included the amount of compensation that the employer actually paid Bray, rather than an amount that purportedly would have been paid to Bray "because Bray would have earned less money as an employee than he did as a contractor." The proposed order informed

the employer and insurer that they could file with the director written exceptions to the proposed order within 30 days after the proposed order was served on the employer and insurer.

The director did not receive from the parties any exceptions to the proposed order.

Therefore, the director now makes the following final decision in this proceeding.

**Findings of Fact, Conclusions of Law and Opinion**

The director adopts, and incorporates herein by this reference, the findings of fact, conclusions of law, and reasoning of proposed order as the findings of fact, conclusions of law, and reasoning of this final order.

**Order**

The billing is affirmed.

**Notice of Right to Judicial Review**

A party has the right to judicial review of this order pursuant to ORS 183.480 and ORS 183.482. A party may request judicial review by sending a petition for judicial review to the Oregon Court of Appeals. The court must receive the petition within 60 days from the date this order was served on the party. If the order was personally delivered to a party, then the date of service is the date the party received the order. If the order was mailed to a party, then the date of service is the date the order was mailed to the party, not the date the party received the order. If a party files a petition, the party is requested to also send a copy of the petition to the Insurance Division.

Dated September 30, 2008      /s/ Scott J. Kipper  
Scott J. Kipper  
Administrator  
Insurance Division  
Department of Consumer and Business Services

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