

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION**

In the Matter of Oregon Chipping & Logging) **FINAL ORDER**
Limited Partnership.) Case No. INS 14-05-003

History of the Proceeding

The Director of the Oregon Department of Consumer and Business Services (director), by and through the Insurance Division, commenced the above entitled administrative proceeding, at the request of Oregon Chipping & Logging Limited Partnership (employer)¹ to contest a workers' compensation insurance final premium audit billing (billing) issued by SAIF Corporation (insurer) to the employer.²

On 3/17/14, the employer received from the insurer a billing dated 3/14/14 for the audit period from 7/1/12 to 6/30/13.

On 3/28/14, the director timely received from the employer a written request for a hearing to contest the billing.

On 3/31/14, the director mailed to the employer a letter, and a petition form to be completed and returned to the director by 5/27/14.

On 5/14/14, the director timely received from the employer a completed petition dated 5/13/14, and a request for an order staying all collection efforts by or on behalf of the insurer of any amount billed in the billing as a result of the audit until this proceeding is concluded.³

On 5/15/14, the director referred the requests to the Office of Administrative Hearings (OAH).

¹ According to Oregon Secretary of State, Corporation Division, business name registry website at http://egov.sos.state.or.us/br/pkg_web_name_srch_inq.show_det?p_be_rsn=1403553&p_srce=BR_INQ&p_print=FALSE, on 3/31/14 and again on 11/26/14, the correct name of the employer is Oregon Chipping & Logging Limited Partnership, not Oregon Chipping and Logging LLP as used by the parties and in the proposed order, or Oregon Chipping and Logging LLC as also used in the proposed order.

² See Oregon Revised Statutes (ORS) 737.318(3)(d), ORS 737.505(4), and Oregon Administrative Rules (OAR) 836-043-0101 *et seq.*

On 5/20/14, OAH issued an order granting a stay.

On 6/25/14, OAH conducted a telephone prehearing conference in which both parties participated.

On 7/2/14, OAH scheduled an in-person hearing to be conducted on 8/26/14.

On 8/19/14, OAH conducted another telephone prehearing conference in which both parties participated.

On 8/19/14, OAH scheduled a telephone, instead of an in-person, hearing to be conducted on 8/26/14.

On 8/26/14, 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 Michael Graddy, as the employer's authorized representative.⁴ The employer called Michael Graddy as its only witness. The employer offered Exhibit A as its documentary evidence was admitted into the record.⁵ The insurer appeared and was represented at the hearing by Holly O'Dell, an attorney. The insurer called Eric Williams as its only witness. The insurer offered Exhibits 1 to 13 as its documentary evidence all of which were admitted into the record.

On 10/3/14, OAH issued a proposed order and mailed it to the parties. The proposed order recommended that the director affirm the billing, as modified,⁶ because the employer (1) did not present any evidence that A1 Hauling was not a

³ See ORS 737.505(5) and OAR 836-043-0170(5).

⁴ See OAR 836-005-0112 and OAR 137-003-0555.

⁵ As offered, employer's Exhibit A consisted of multiple documents. However, during the hearing, the employer withdrew all but two of the documents as evidence. The two remaining documents were a "summary" and an "equipment lease agreement." The "summary" may have been a two page letter dated 8/8/14 from the employer to OAH. The "agreement" was a three page equipment lease agreement dated 3/12/10. See proposed order page 2 and footnote 2 therein.

⁶ According to the proposed order page 3, "[a]fter employer requested a hearing on the billing [on 3/28/14] and provided more information to SAIF [on an unspecified date], SAIF orally agreed [sometime between 3/28/14 and 8/26/14] to not assess premium (and to credit the policyholder) on three of the subcontractors listed in the billing: Kurz, Krauss and Armstrong." According to the proposed order page 4, "[t]he premium audit identified other subcontractors which SAIF contended were subject to coverage and, as a result, assessed additional premium. ... Of the other subcontractors listed in the [billing], employer only specifically contested two at hearing: A1 Hauling and Li'l Bit Logging."

subject worker, and (2) was responsible for providing workers' compensation insurance covering the employees of Li'l Bit Logging pursuant to ORS 656.029. The proposed order informed the parties that they could file with the director written exceptions to the proposed order and the director must receive any exceptions by 11/3/14.⁷

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 corrected proposed order as the findings of fact, conclusions of law, and reasoning of this final order except as corrected in footnote 1 herein.

Order

The billing, as modified, is affirmed and the stay is terminated.

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 DEC 05 2014



Laura N. Cali, FCAS, MAAA
Insurance Commissioner and Chief Actuary

⁷ See ORS 183.460 and OAR 137-003-0645(5).

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of Oregon Chipping & Logging) CERTIFICATE of
Limited Partnership) SERVICE of
) FINAL ORDER
) Case No. INS 14-05-003

I certify that I sent the final order to the following person(s) on the date and by the means indicated below:

Michael A. Graddy
General Partner
Oregon Chipping & Logging
Limited Partnership
779 E Vilas Road
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First Class Mail
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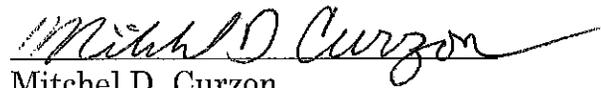
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Dated DEC 05 2014


Mitchel D. Curzon
Chief Enforcement Officer

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