STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Columbia River Dairy, LLC**	)	**FINAL ORDER**
	)	Case No. INS 08-01-001

The director of the Oregon Department of Consumer and Business Services (director), commenced this administrative proceeding, at the request of Columbia River Dairy, LLC (employer), pursuant to Oregon Revised Statutes (ORS) 737.318(3)(d), ORS 737.505(4), and Oregon Administrative Rules (OAR) 836-043-0101 *et seq*, to review a workers' compensation insurance final premium audit billing (billing) issued by SAIF Corporation (insurer) to the employer.

History of the Proceeding

On 10/25/07, the employer received from the insurer a billing dated 10/22/07 for the audit period from 7/1/06 to 6/30/07. [1]

On 12/10/07, the director timely received from the employer a written request for a hearing to review the billing. [2]

On 12/11/07, the director mailed to the employer a letter and a petition form.

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[1] The proposed order dated 6/13/08 and the revised proposed order dated 8/19/08, collectively referred to as the proposed orders, did not find when the employer received the billing. The date when an employer receives a billing, and the director receives the employer's request for a hearing and completed petition, are critical to determining whether the employer is entitled to a hearing. ORS 737.505(4), OAR 836-043-0110, OAR 836-043-0170. See *Pease v. National Council on Compensation Insurance*, 113 Or App 26, 830 P2d 605, *rev den* 314 Or 391 (1992). The employer stated in its request for a hearing dated 12/7/07 that the employer received the billing on or about 10/18/07, however the billing was not dated until 10/22/07, and in its petition dated 1/7/08 that it received the billing on 10/25/07. The director provided to OAH and the insurer a copy of the employer's request for a hearing and petition when the director referred the case to OAH on 1/8/08. The employer and insurer did not introduce any evidence at the hearing to the contrary. Therefore, the director finds that the employer received the billing on 10/25/07.

[2] The proposed orders also did not find when the director received the employer's request for a hearing. On 12/10/07, the director received from the employer a letter dated 12/7/07 requesting a hearing. The director provided to OAH and the insurer a copy of the employer's request for a hearing when the director referred the case to OAH on 1/8/08. The employer and insurer did not introduce any evidence at the hearing to the contrary. The employer and insurer did not introduce any evidence at the hearing to the contrary. Therefore, the director finds that the director received the employer's request for a hearing on 12/10/07.

On 1/8/08, the director timely received from the employer the completed petition.[3]

On 1/8/08, the director received from the employer 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. See ORS 737.505(5) and OAR 836-043-0170(5).

On 1/8/08, the director referred the requests to the Office of Administrative Hearings (OAH).

On 1/11/08, OAH received from the employer 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.

On 1/15/08, OAH issued an order granting the stay.

On 1/17/08, OAH scheduled a hearing to be conducted on 5/7/08.

On 5/7/08, OAH conducted a hearing. The hearing was conducted by Rohini Lata, an administrative law judge of OAH. The employer appeared and was represented at the hearing by William Replogle, an attorney. The employer called Brian Anderson and Angie Knowles as its witnesses. The employer offered Exhibits P1 to P13 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 Teresa Smith as its witness. The insurer offered Exhibits A1 to A11 as its documentary evidence all of which were admitted into the record.

On 6/13/08, OAH issued a proposed order and mailed it to the parties. The proposed order recommended that the director affirm the billing.

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[3] The proposed orders also did not find when the director received the employer's petition. On 1/8/08, the director received from the employer a letter dated 1/7/08 enclosing a completed petition. The director provided to OAH and the insurer a copy of the employer's petition when the director referred the case to OAH on 1/8/08. The employer and insurer did not introduce any evidence at the hearing to the contrary. The employer and insurer did not introduce any evidence at the hearing to the contrary. Therefore, the director finds that the director received the employer's request for a hearing on 1/8/08.

On 7/14/08, the director timely received from the employer written exceptions to the proposed order.[4]

On 7/17/08, OAH received from the insurer its response to the employer's exceptions to the proposed order.[5]

On 7/17/08, the director requested OAH to review the exceptions and issue a revised proposed order. See OAR 137-003-0650(3).

On 7/28/08, the director received from the employer a reply to the insurer's response to the employer's exceptions to the proposed order.

On 7/28/08, the director sent to OAH the employer's reply to the insurer's response to the employer's exceptions to the proposed order.

On 8/19/08, OAH issued a revised proposed order. The revised proposed order recommended that the director affirm the billing.

On 8/21/08, OAH mailed the revised proposed order to the parties.

On 9/19/08, the director timely received from the employer written exceptions to the revised proposed order.

On 9/30/08, the director received from the insurer its response to the employer's exceptions to the revised proposed order.[6]

On 10/9/08, the director received from the employer its response to the insurer's response to the employer's exceptions to the revised proposed order.

The director considered the exceptions and responses.

On 2/2/10, the director issued an amended proposed order proposing to reverse the revised final premium audit billing issued by the insurer, and withdraw the stay of collection. In a cover letter dated 2/2/10 to the order, the director explained the reason for the delay in making a decision and for issuing an amended proposed order rather than a final order by saying:

> We apologize for the delay in making this decision. We have been working on the case periodically for quite some time but other matters

[4] The director did not receive from the insurer any exceptions to the proposed order.
[5] The director was unaware of the insurers' response until 7/28/08, and did not receive a copy until 8/28/08, which was after OAH issued a revised proposed order.
[6] The director did not receive from the insurer any exceptions to the revised proposed order.

> prevented us from finishing our review of this case until now. We considered issuing a final order. However, our counsel advised us that we must issue an amended proposed order instead. Thus this case is not yet final, and the parties have yet another opportunity to file exceptions.

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

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

Findings of Fact

The director adopts, and incorporates herein by this reference, the findings of fact in the revised proposed order as the findings of fact of this final order, except as modified herein. The deleted text is indicated by strikethrough, and added text is indicated in bold.

1. Columbia River Dairy, LLC (CRD) is a dairy farm with about 16 to 17 thousand milk-producing cows and about three thousand dry, birthing or rejuvenating cows. (Test. of Anderson.) CRD produces milk and employs several employees including dairy feeders, dairy managers, Holstein milkers, Jersey milkers and rake and bedding providers. CRD employees are paid a salary, and are supervised and are union members. (Test. of Knowles.)

2. CRD applied for worker's compensation coverage with SAIF in 2003. (Ex. A1.) SAIF concluded that CRD operations included care and handling of livestock, milking, processing and the wholesale or retail sales of milk products. SAIF classified most of CRD employees under the 0036 (dairy farm and driver) and a few under the 8810 (office clerical) class codes. (Ex. A3.) SAIF approved the application and CRD's workers' compensation coverage with SAIF became effective October 1, 2003. (Ex. A2.) SAIF has continuously provided CRD's workers' compensation coverage since that time. (Test. of Smith.)

3. SAIF first audited CRD in 2005 for the July 1, 2004 through June 30, 2005 policy period. (Test. of Knowles.) SAIF discovered payments made to Brian Anderson, a "hoof trimmer," which were not included in CRD's payroll. (Ex. A5.)

SAIF audited CRD for the July 1, 2005 through June 30, 2006 policy period and again included payments made by CRD to Mr. Anderson. SAIF also became aware of individuals working with Mr. Anderson and advised CRD of the requirements of ORS 656.029. (Ex. A7.) SAIF included the payments to Mr. Anderson in the final premium audit billings. CRD paid the previous final premium audit bills for July 1, 2004 through June 30, 2005 and July 1, 2005 without a request for hearing even though CRD disagreed with the inclusion of payments to Mr. Anderson in the audit billing. (Test. of Knowles.)

4. Most recently, SAIF audited CRD for the July 1, 2006 through June 30, 2007 policy period. This time, besides including payments made to Mr. Anderson, SAIF also included payments made by Mr. Anderson to Ryan James Francis, another hoof trimmer. (Ex. A8.)

5. Sometime prior to September 8, 2006, CRD told Mr. Anderson to obtain workers' compensation coverage from SAIF. (Test. of Anderson.) Mr. Anderson obtained and had SAIF coverage from September 8, 2006 until March 7, 2007. (Ex. P12.) SAIF cancelled his policy because Mr. Anderson did not file a payroll report. (Test. of Smith.)

6. Mr. Anderson is the owner of Anderson Cattle Services. (Ex. P13.) He has his own business cards and advertises by word of mouth. He has been in the hoof trimming business for about 20 years and is highly skilled in that work. Over the years, he has had about 1,500 customers. However, as dairies and ranches have consolidated, his customer base has declined. (Test. of Anderson.) He continues to provide his services to CRD and other smaller customers such as Six Mile Land and Cattle Co. and Keltic Pride Dairy. During the July 1, 2006 through June 30, 2007 audit period, Mr. Anderson's largest customer was CRD. (Ex. P6.) **He provided services for other customers during the audit period.**[7]

[7] Reason for additional agency finding of fact: The proposed finding of fact failed to fully set forth the evidence in the record.

7. Mr. Anderson started his relationship with CRD sometime in 2001 based on a request by Dr. Dan Vander Stelt, who worked at CRD at the time as a Herd Manager and Veterinarian. (Ex. P13.) Mr. Anderson contacted CRD and left his business cards with his phone number. CRD called him sometime shortly thereafter and the parties verbally agreed that Mr. Anderson would provide hoof trimming services to CRD. The parties do not have a written contract. Instead, as is customary in the Eastern Oregon locality, they had a "handshake agreement" that Mr. Anderson would provide hoof trimming services to CRD, and that CRD had the right to terminate the agreement. The parties agreed that Mr. Anderson would provide his own equipment and supplies and bill CRD monthly based on the number of cattle trimmed and supplies used. (Test. of Anderson.)

8. CRD calls Mr. Anderson when there is work. Mr. Anderson is free to accept or decline the work. If he accepts the work, he performs the work at the ranch without any assistance. Prior to Mr. Anderson's arrival at the ranch, CRD employees pen the cows in need of attention. Because of the long-term relationship, Mr. Anderson knows that the cows needing attention are penned. Mr. Anderson does not clock in nor does he take direction or assistance from CRD. On some days, Mr. Anderson does not even talk to any CRD employees. Likewise, Mr. Anderson does not work with CRD's veterinarian. He marks the cows that need more than hoof trimming with an "X" and those cows are treated at the hospital. (Test. of Anderson.)

9. Mr. Anderson has invested a substantial amount of money in his specialized equipment (a kangaroo catcher) and truck. He also provides his own tools and supplies for the job which cost a considerable amount of money. (Test. of Anderson.)

10. As per the parties' verbal agreement, Mr. Anderson sets his own price. Mr. Anderson charged CRD $7 per cow (Jersey and Holstein) for trim, $17 for blocks and $1.50 for wraps in 2006. He increased his price to $8 per cow for trim in 2007. (Test. of Anderson.)

11. Mr. Anderson bills CRD on or about the fifteenth of the month. (Ex. P6.) During the audit period, CRD paid Mr. Anderson, rather than his business~~, on the same day he submitted his monthly bills~~.[8] Mr. Anderson also billed two smaller clients on July 15, 2007, outside the audit period. Mr. Anderson kept two separate invoice books, one exclusively for CRD and one for his smaller customers. (Test. of Anderson.) CRD did not withhold any of the payment to Mr. Anderson for employee-related benefits such as retirement savings, health insurance, unemployment, *etc*. CRD withheld from Mr. Anderson's pay the premium charged by SAIF for providing him and the other hoof trimmers' workers' compensation coverage.

12. During the audit period, CRD was Mr. Anderson's largest client and Mr. Anderson provided hoof trimming services to CRD on a ~~regular~~ **frequent** basis.[9] Occasionally, Mr. Anderson did not work for CRD because he needed time off. On other occasions, CRD had more work than Mr. Anderson could handle. On those occasions, three other individuals, Loren Clevenger, Daaron Hamilton and Ryan Francis, also performed hoof trimming services for CRD. All three individuals provided hoof trimming services to CRD during the July 1, 2006 through June 30, 2007 audit period and billed CRD through Mr. Anderson. **Mr. Hamilton was terminated by CRD because of unsatisfactory work product.**[10] Mr. Anderson did not supervise or certify the work of these three individuals. If CRD had a complaint, CRD spoke directly with the hoof trimmer responsible for the work. (Test. of Anderson.)

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[8] Reason for agency deletion in finding of fact: The proposed finding of fact misstates the evidence in the record. Mr. Anderson was not paid on the same day he submitted his monthly bills. [Ex. P7; the Test. of Smith.]

[9] Reason for modification of agency finding of fact: The proposed finding of fact misstates the evidence in the record. Testimony of Anderson indicated that the amount of time he provided services to CRD varied significantly within any given week due to CRD's fluctuating needs, his work for other clients, and his desire to take days off. He did not have a regular schedule, but rather was phoned when CRD needed him.

[10] Reason for additional agency finding of fact: The proposed finding of fact failed to fully set forth the evidence in the record.

13. Mr. Loren Clevenger's business is called Clevenger Hoof Trimming. Mr. Daaron Hamilton's business is called Hamilton Hoof Trimming. Mr. Clevenger and Mr. Hamilton owned their own trucks and also worked for other customers. (Test. of Anderson.)

14. During the July 1, 2006 through June 30, 2007 audit period, Mr. Anderson owned two trucks. He leased his 1989 Ford to Mr. Francis[11] and retained his 2002 Ford truck for himself. Other than the leased truck, Mr. Francis owned his own tools and equipment. He did however purchase his supplies from Mr. Anderson. (Test. of Anderson.) All three individuals billed Mr. Anderson for their work. When billing Mr. Anderson, Mr. Francis charged $5 for Jerseys and $7 for Holsteins for trims, $5 per block and fifty cents for wraps. Mr. Francis always billed Mr. Anderson on the fifteenth of the month. (Ex. P2.) Mr. Anderson paid him within a few weeks of the billing. Mr. Francis charged Mr. Anderson less than what Mr. Anderson charged CRD, so that Mr. Anderson could retain the difference and apply it to the lease of the truck and supplies he provided. (Test. of Anderson.)

15. Mr. Anderson issued form 1099s to all three individuals. (Test. of Anderson.) The individuals filed a Schedule C with their federal income taxes. In 2006, Mr. Anderson issued a form 1099 to Mr. Francis in the amount of $73,393 and to Mr. Clevenger in the amount of $4,117. (Ex. P3.) In 2006, Mr. Francis represented his gross receipts as $72,760 and Mr. Clevenger represented his gross receipts as $108,810. (Ex. P13.)

16. On February 8, 2008, SAIF adjusted CRD's premium audit billing because SAIF realized that Mr. Anderson had his own coverage from September 8, 2006 through March 8, 2007. The adjustment reduced the amount billed for Mr. Anderson from $242,955 to $104,398 because Mr. Anderson had his own SAIF coverage during part of the audit period. (Ex. A9.)

Conclusions of Law

[11] Incidentally, Mr. Francis became the owner of the 1989 Ford truck after the July 1, 2006 through June 30, 2007 audit period.

SAIF incorrectly included in the employer's audited payroll payments from employer to Brian Anderson during the audit period.

SAIF incorrectly included in the employer's audited payroll payments from Brian Anderson to Ryan Francis under ORS 656.029.

Opinion

The director adopts, and incorporates herein by this reference the opinion and reasoning of revised proposed order as the opinion and reasoning of this final order, except as follows.

The director disagrees with the revised proposed order's finding that the common law "right to control" test is inconclusive in determining whether Anderson is a subject worker, and finds that the test conclusively establishes an independent contractor relationship. Factors considered under the "right to control" test include: direct evidence of the right to, or the exercise of control; the method of payment; the furnishing of equipment; and the right to fire. *See Castle Homes, Inc. v. Whaite*, 95 Or. App. 269, 272 (1989). None of these factors is dispositive; rather, they are viewed in their totality. *See Cy Inv., Inc. v. Natl. Council on Compen. Ins.*, 128 Or. App. 579, 583 (1994).

The director disagrees with the revised proposed order's finding that the method of payment is a neutral factor. The evidence shows that Anderson set the rates charged to the employer on a flat "per cow" basis, and that he submitted monthly billing. *See Reforestation Gen. v. Natl. Council on Compen. Ins.*, 127 Or. App. at 169 (payment on a flat bid basis by the thousand board feet for timber cut indicates independent contractor status). Considering the nature of this work, this is a reasonable means of payment. *See Oregon Drywall Sys. v. Natl. Council on Compen. Ins.*, 153 Or. App. 662, 665 (1998); *Trabosh v. Washington Co.*, 140 Or. App. 159, 165-166 (1996). This method of payment focuses on the end result of having a desired number of cows with trimmed hoofs, and lessens the employer's interest in the details of how Anderson spends his time, suggesting an independent contractor relationship. *Henn v. St. Accident Ins. Fund Corp.*, 60 Or. App. 587, 592 (1983) (citing 1C Larson's, *Workers' Compen. Law*, §44.33(b) (1973)). He was called

by employer to do this work as needed, and the volume of cows at the dairy required frequent work. The director does not agree that the regularity of the billing payments points towards an employment relationship, but rather is simply reflective of Anderson's accounting methods. Nor does the fact that the employer paid Anderson directly imply any right to control. This factor focuses the *method* of payment, not the name of the payee. This is just as likely a custom in the employer's accounting department. Taken together with the fact that employer issued Anderson a 1099 and did not withhold taxes or employee-related benefits from payments to Anderson, the director finds the method of payment factor to indicate an independent contractor relationship.

The director also disagrees with the revised proposed order's finding that the right to fire factor suggests an employment relationship. Anderson's testimony indicated that he had a longstanding oral contract with employer to provide hoof trimming services. Mr. Hamilton, another hoof trimmer working for employer, was terminated because of unsatisfactory work product. This evidence of past practice of employer regarding oral contracts shows a custom and usage that is relevant to interpretation of the contract. *Haynes v. Douglas Fir E. & E. Co.*, 161 Or. 538 (1930); *George v. Sch. Dist. No. 8R of Umatilla Co.*, 7 Or. App. 183 (1971). The Court in *Henn*, 60 Or. App. at 592-593, held that "[a]n unqualified right to fire, indicative of an employer-employe[e] relationship, must be distinguished from the right to terminate the contract of an independent contractor for bona fide reasons of dissatisfaction. The exercise of such a right is still consistent with the idea that a satisfactory end result is all that is aimed for by the contract." The revised proposed order reasoned that Anderson was required to perform such work as the employer could provide, despite the findings of fact which state that Anderson is called by employer when there is work and is free to accept or decline the work. The director disagrees with the revised proposed order's implication that because there was no written contract, there was no contract at all between the parties, signifying a right to fire without contractual liability. *See Reforestation Gen.*, 127 Or. App. at 169 (absent direct evidence of the employer retaining an unqualified right to

terminate absent bona fide reasons of dissatisfaction, the court found no suggestion that there was such an unqualified right, and held that the right to fire factor indicated independent contractor status). The evidence does not show that Anderson could be terminated for any reason other than a violation of the parties' oral contract. Looking to the intention of the parties, both viewed the nature of their relationship as one of employer and independent contractor, and although this factor is not controlling, it may swing the balance in a close case. *See Trabosh v. Washington Co.*, 140 Or. App. 159 at 166 (note 10) (1996) (citing *Cy Inv.*, 128 Or. App. at 583).

Although all factors should be taken into consideration, the primary factor is the employer's right to control the means and methods of performing the work. *Great Am. Ins. Co. v. Gen. Ins. Co. of Am.*, 257 Or. 62, 68 (1970). The revised proposed order found the control issue to indicate that Anderson was an independent contractor, and the director agrees. Based on the totality of the facts as laid out above, the director concludes that Anderson was an independent contractor. Because the director does not find the "right to control" test to indicate that the employer retained some right to control the methods and details of Anderson's work, this conclusively establishes that Anderson is an independent contractor. *Rubalcaba v. Nagaki Farms, Inc.*, 333 Or. 614, 627 (2002).

Alternatively and out of an "abundance of caution," the director still finds that Anderson is an independent contractor under the "relative nature of the work" test. *See Schmidt v. Intel Corp.*, 199 Or. App. 618, 626-627 (2005). This test should be applied "in situations in which there is some evidence of suggesting that an employer retained the right to control the method and details of a claimant's work." *Rubalcaba v. Nagaki Farms, Inc.*, 333 Or. at 627. The factors of this test include (1) the character of the person's work or business- its skill, status as a separate enterprise, and the extent to which it may be expected to carry the burden of accidents itself; and (2) the relation of a person's work to employer's business- how much it is a regular part of the business's regular work, whether it is continuous or intermittent, and whether it is of sufficient duration to be the hiring of continuing

services rather than contracting for a particular job. *Woody v. Waibel*, 276 Or. 189, 195 (1976) (citing 1A Larson's, *Workers' Compen. Law*, §43.52 (1973)).

The employer is Anderson's largest customer, but was not his only customer during the audit period. Anderson has provided services to about 1,500 customers in his approximately 20 years in the hoof trimming business. Because of consolidation of dairies and ranches, his customer base has declined. Anderson carries a separate independent business with an assumed business name, has his own business cards, and advertises through word of mouth, all factors suggesting that he is not a worker. *Trabosh v. Washington Co.*, 140 Or. App. at 167. Anderson is highly skilled in the hoof trimming business and has invested a substantial amount of money in his own specialized tools and supplies, equipment, and vehicle. Anderson's business is very much a separate enterprise.

The director disagrees with the revised proposed order's finding that Anderson's business is inextricably intertwined with employer's business. Anderson had been providing services to employer for only about five to six years at the time of the billing, yet had managed to operate his company for over a decade prior without having employer as a customer. The record does not establish that Anderson's business could not continue without employer.

The director disagrees with the revised proposed order's finding that Anderson's services were an essential and regular part of employer's work. Employer's business is the production of milk, which requires various services from a multitude of providers to operate effectively. The service of hoof trimming is no more an integral part of the business than are other independent contractors such as electricians, veterinarians or cleaners, which all perform maintenance activities. *Compare McQuiggin v. Burr*, 119 Or. App. 202, 208 (1993) (plant maintenance not found to be a part of floral business); *Schmidt v. Intel Corp.*, 199 Or. App. at 627 (installation of electrical systems not a regular part of computer microprocessor manufacturing business); *with Castle Homes, Inc. v. Whaite*, 95 Or. App. at 273 (selling of mobile homes found to be an integral part of mobile home sales company); *Coghill v. Nat'l Council on Comp. Ins.*, 155 Or. App. 601, 608 (1998) (installation of

siding, work identical to that of employees, found to be integral to a siding installation company). Anderson's services were only tangential to employer's primary business. *See Trabosh v. Washington County*, 140 Or. App. at 167.

Although the business relationship between employer and Anderson was established years ago, this does not necessarily indicate that the character of Anderson's business is "continuous." Anderson performs work on a per-cow basis and is called to work by employer only when needed, with each work agreement for a specific number of cows. *See Lockard v. Murphy Co.*, 49 Or. App. 101, 105-108 (1980). Each time Anderson chooses to accept work from employer, a new contract is essentially created for that particular job. *See Trabosh v. Washington Co.*, 140 Or. App. at 166.

Anderson's ability to obtain and pay his own business's workers' compensation coverage demonstrates his ability to bear the cost of injury to hoof trimmers. As the record indicates, he sets his own price and purchases his own supplies, and is therefore able to pass any increased cost of his services on to his customers. *See Coghill*, 155 Or. App. at 606. He recently did indeed raise his price for trims.

When continuing from the "right to control" test to the "relative nature of the work" test, the determination of a person's status as "employee" or "independent contractor" requires analysis of the factors from *both* tests. *Rubalcaba*, 333 Or. at 627 (interpreting *Woody*, 276 Or. at 196). When viewing the factors in totality, the director finds that the abundance of facts demonstrating that Anderson is an independent contractor sufficiently override the few factual inferences which *may* indicate an employer status.

For the same reasons discussed above, the director finds that Ryan Francis was an independent contractor and not a subject employee.

Order

The billing, as revised by insurer[12], is reversed, and the stay is terminated.

[12] See insurer's hearing memorandum, dated 4/25/08, page 2, lines 7-15.

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 March 23, 2010

/s/ Teresa D. Miller
Teresa D. Miller
Administrator
Insurance Division
Department of Consumer and Business Services

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