BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of the Final Premium Audits of	)	Case No. INS 1202002
RCL, LLC dba OSWEGO ROOFING, Employer	)	**PROPOSED ORDER**

HISTORY OF THE CASE

On February 7, 2012 and May 25, 2012, Travelers Insurance (Travelers, or the insurer) issued Final Premium Audit Billings to RCL[1] LLC, dba Oswego Roofing (Oswego, or the employer).[2] The audit periods were from March 19, 2010 through March 19, 2011 and March 19, 2011 through March 19, 2012, respectively. Employer initially appealed Travelers' billings via an email to Mitch Curzon on October 10, 2011, followed by a Petition mailed by employer's counsel on November 3, 2011. An Amended Petition was mailed on February 13, 2012 (received February 14, 2012), contesting Travelers' February 7, 2012 Final Premium Audit Billing. A Supplemental Petition was sent to the Director on June 4, 2012, contesting Travelers' May 25, 2012 Final Premium Audit Billing. The Office of Administrative Hearings (OAH) received a copy of the Supplemental Petition on June 5, 2012.[3]

The Insurance Division referred the matter to the OAH on February 8, 2012, based upon the initial hearing request and petition. The case was assigned to Administrative Law Judge (ALJ) Rick Barber. A prehearing conference was held on April 16, 2012, and a hearing was set for September 18, 2012.

Hearing was held as scheduled on September 18, 2012, in Tualatin, with ALJ Barber presiding. Employer appeared and was represented by Attorney Bill Replogle. Insurer was represented by Attorney Patrick Wylie. Employer called the following witnesses: Insurance Agent Seth Pietsch; Bookkeeper Terrilynn Allworth Roshay; and Rick Lofton. No witnesses testified for Travelers. The evidentiary record closed on September 18, 2012, but the matter was held open for written closing arguments. The

[1] Various file documents mistakenly refer to the company as RLC, LLC.
[2] An earlier Final Premium Audit Billing, covering both years in question, had been sent to employer on or about October 14, 2011. Employer requested a hearing on that billing on October 10, 2011, and on November 3, 2011 also provided a Petition to the Division. Travelers also issued Final Premium Audit Billings on January 25, 2012, May 20, 2012, May 23, 2012, and June 20, 2012. The June 20, 2012 FPAB is the one at issue for the second policy period.
[3] From this receipt, I infer that the Insurance Division received the original on June 5, 2012.

record closed on January 7, 2013, upon receipt of employer's Reply Argument.

On February 6, 2013, the record was reopened to obtain clearer information from Travelers about which of several filed Final Premium Audit Billings (FPABs) were at issue in the case. On February 13, 2013, the OAH received the following response from Travelers:

> Counsel for the parties have conferred as requested in your February 6, 2013, letter. The parties agree on the following. Your letter correctly states $150,630 as the premium audit amount for the first policy year. As for the second policy year, the amount at issue can be found in Travelers' Exhibit 51, a June 22, 2012 letter. The letter notes the final earned premium for that term is $79,270.

I am marking Travelers' response as Exhibit R54 and admitting it into evidence at that time.[4]

ISSUES

Employer objects to the Final Premium Audit Billings for the policy years of March 19, 2010 through March 19, 2011 and March 19, 2011 through March 19, 2012, in the following particulars:

1. Whether insurer's multiple Final Premium Audit Billings are inconsistent and contradictory, such that employer is unclear about what amounts the insurer claims are owed.

2. Whether insurer improperly concluded that employer's time cards were not verifiable, thereby assigning incorrect classification codes.

3. Whether certain individuals performing service for employer were independent contractors rather than employees.

EVIDENTIARY RULINGS

Exhibits R1 through R53, offered by employer, and Travelers' exhibits T1 through T93, were admitted into evidence. Objections to T89 through T92 and R51 and R52 were overruled.

FINDINGS OF FACT

1. Richard C. Lofton originally performed roof cleaning and repair as a sole proprietor in the 1990s, and his company grew to the point where he hired employees and obtained workers' compensation coverage with SAIF Corporation in approximately 1998.

[4] If either side objects to the inclusion of this document in evidence, you must present those objections in writing within ten days of issuance of this Order.

Lofton formed RCL, LLC in approximately 2009, and the LLC's dba is Oswego Roofing. After working with other insurers, Oswego began coverage with Travelers in 2009. (Test. of Lofton).

2. Employer's work includes many tasks associated with roofing and construction, including installing new roofs, repairing existing roofs, re-roofing, tearing off roofs, power washing roofs, and cleaning and power washing the areas below the roofs (such as gardens, driveways, etc.), from the mess caused by work performed on the roof. Employer also does other general construction, such as decks and a greenhouse for the City of Lake Oswego. (Test. of Lofton).

3. In April 2010, Lofton called a meeting of his power washers, all of whom were employees at that time. Lofton told them that Oswego was no longer going to employ power washers, but that they had the choice of either going elsewhere or continuing to perform power washing services for Oswego on an independent contractor basis. Lofton gave the power washers the freedom to set their own schedules, and to decline power washing assignments. He assisted them in obtaining business cards for their new businesses, and had them sign W-9 forms. The workers received the same amount per hour, but were paid when the client paid rather than at a regularly scheduled time. If they did the work for Oswego, they had to work according to Oswego's schedule and use Oswego's equipment. Even on jobs not assigned by Oswego, those who took the additional jobs used employer's equipment. (Ex. T44 at 3). Travelers contended that the following individuals were employees rather than contractors:

- Sesar Beltran Monyoha
- Roberto Carrasco
- Francisco Guzman
- Ismael Guzman
- Luis Guzman
- Chico Roofing LLC
- Leonardo Gonzalez
- Miguel Flores
- Victor Manuel
- Moises Sotelo
- Hernan Montero
- Gabael Zardo
- Alfredo Arroyo
- Audemar Sanchez
- Walter Posadas
- Ricardo Ruiz
- John St. Helen
- Raymond Stuck
- Javier Trujano
- Jose Garcia
- Spencer Wheless

- Jim Yawa

(Ex. R44 at 3-4). Based on information provided to Travelers, it "backed out" the amount of $29,597 from its initial assessment. (Test. of Pietsch).

4. In January 2011, one of the power washers, Flores, fell from a roof while performing power washing duties. From employer's perspective, Flores was operating as an independent contractor at the time of the injury. Travelers denied the claim, but Flores prevailed at a workers' compensation hearing when ALJ Poland determined that he was a subject worker under both the "direction and control" and "nature of the work" tests. (*Id*.).

5. Thereafter, Travelers audited employer to determine whether other workers, treated as independent contractors, should be included as subject workers. During its audit of the March 2010-2011 policy year, Travelers also reviewed the employer's use of multiple billing codes by reviewing the time records for verifiability.

6. From March 2010 through March 2011, employer used a time card system. The workers used the cards in various ways: some of the workers listed only the number of hours worked with no additional information; some listed specific clients or accounts where they worked on a specific day but gave no breakdown or division of hours on each job; others indicated the type of work but with no hourly breakdown. Employees Yaws, Benjamin Crase, and Joe S., while working in the office, gave full information of their duties and the hours the work was performed. (Exs. T1-T13).

7. From April 2011 through December 2011, employer began to use a summary sheet to describe the work being performed. The summary sheets included the types of work, the hours worked, and the class codes employer had assigned to the jobs. However, the summaries often differed from what the actual time cards showed, particularly in adding "shop time" to a worker's day when the time card did not include shop time, and interpreting time cards that only listed class codes or accounts by adding detail not present on the time cards. (Exs. &15-T28).

8. From January 2012 through March 2012, the employer improved its summary sheet system to include actual jobs, the number of hours for each job, and the appropriate class code. These summaries contained all of the information needed for a verifiable time record. (Ex. T30).

9. For the 2010-2011 policy year, Travelers sent out the following notices to employer:

- November 22, 2010 – premium adjustment notice for $7,017 (Ex. R35B)
- August 24, 2011 – premium adjustment notice for $65,598 (Ex. R38)
- October 14, 2011 – premium adjustment notice for $179,511 (Ex. R42)
- Multiple bills for premium of $52,232 from August to October 2011
- August 26, 2011 – Earned Premium Notice of $52,232 (Ex. R36)

- October 18, 2011 – Earned Premium Notice of $166,145 (Ex. R42)
- January 25, 2012 – Final Premium Audit Billing $165,224 (Ex. R43A)
- February 7, 2012 – FPAB $150,630 (Ex. R44)

The last contended that employer owed premium in the amount of $150,630. (Ex. R44).

10. For the 2011-2012 policy year, Travelers sent out the following notices to employer:

- February 17, 2012 – Premium Adjustment Notice $31,197 (Ex. R44A)
- May 20, 2012 – FPAB for $62,911 (Ex. R44B)
- May 23, 2012 – FPAB for $63,590 (Ex. R44C)
- May 25, 2012 – FPAB for $38,726 (Ex. R45)
- June 20, 2012 – FPAB for $79,270 (Ex. R45A)

The last FPAB contended that employer owed $79,270. (Ex. R45A).

CONCLUSIONS OF LAW

1. Insurer's multiple Final Premium Audit Billings are inconsistent and contradictory.

2. Employer's time cards were not verifiable, with some exceptions.

3. Individuals performing service for employer were not independent contractors rather than employees.

OPINION

Employer presents three issues in the hearing. First, it contends that Travelers' billings for the two policy years are "inconsistent and contradictory" to the extent that employer is not sure what amounts are actually owed. Second, employer contends that several of its power washing workers were independent contractors and not subject workers. Finally, employer also contends that its time records are verifiable, and that it should be able to split time between classification codes, thereby lowering its rates. In all three instances, employer has the burden of proof to establish that the insurer's premium audit is incorrect. *Salem Decorating v. NCCI*, 116 Or App 166 (1992) *rev den* 315 Or 643 (1993). It must prove its case by a preponderance of the evidence. *Sobel v. Board of Pharmacy*, 130 Or App 374, 379 (1994), *rev den* 320 Or 588 (1995) (standard of proof under the Administrative Procedures Act is preponderance of evidence absent legislation adopting a different standard). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely true than not. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390 (1987).

1. Travelers' Billings. Employer contends that Travelers' billings are inconsistent and contradictory. Travelers argues that the issues and amounts are

addressed in the petitions filed by employer. The record demonstrates that Travelers' communications with employer have been very confusing. There are two policy years, and ultimately two premium audits at issue in this case. However, Travelers has sent out many different documents, many called final premium audit billings, some called "premium notice" and some with other titles as well. In the 2010-2011 policy year, for instance, Travelers sent out:

- November 22, 2010 – premium adjustment notice for $7,017 (Ex. R35B)
- August 24, 2011 – premium adjustment notice for $65,598 (Ex. R38)
- October 14, 2011 – premium adjustment notice for $179,511 (Ex. R42)
- Multiple bills for premium of $52,232 from August to October 2011
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- February 7, 2012 – FPAB $150,630 (Ex. R44)

The numbers in nearly every notice were different than the one before it and the one after it.

In the 2011-2012 policy year, the situation was similar:

- February 17, 2012 – Premium Adjustment Notice $31,197 (Ex. R44A)
- May 20, 2012 – FPAB for $62,911 (Ex. R44B)
- May 23, 2012 – FPAB for $63,590 (Ex. R44C)
- May 25, 2012 – FPAB for $38,726 (Ex. R45)
- June 20, 2012 – FPAB for $79,270 (Ex. R45A)

As in the previous year, the numbers were confusing. Thus, employer's confusion about what amounts Travelers is actually seeking in each case is justified.

For this reason, the hearing record was reopened to seek further clarification from the parties about which FPABs Travelers was relying on in the case. Exhibit R54 establishes that Travelers is seeking $150,630 for the first policy year, and $79,270 for the second year.

Employer's arguments about the confusing nature of Travelers' billings are not limited to the "bottom line" for each policy year, and employer has also shown mistakes in the insurer's calculations. Exhibit R44 at 3, for instance, shows that Luis Castaneda Guzman's time was billed at a rate of "16995" rather than a rate of 25.58. It is unclear how this clear error affected the amounts that Travelers billed employer, but it must be corrected.

No other specific allegations of error in Travelers' audit billings have been made, other than issues of verifiable time records and whether certain workers were independent contractors. Accordingly, I now turn to those issues.

2. Verifiable Time Records Issue. OAR 836-042-0060 states in part:

Conditions for Division of Payroll of Individual Employees

(1) When there is an interchange of labor, the payroll of an individual employee shall be divided and allocated among the classification or classifications that may be properly assigned to the employer, *provided verifiable payroll records maintained by the employer disclose a specific allocation for each such individual employee*, in accordance with the standards for rebilling set forth in OAR 836-043-0190 and this rule.

(2)This rule does not apply to a single employee whose duties vary within exposure areas normally anticipated by the scope of a single classification or who spends only a limited amount of time, on an infrequent or irregular basis, in a classification exposure that is not a normal job function for that employee. As used in this section, "infrequent or irregular" means that the time spent in the classification exposure is limited, is not anticipated in the normal duties of the employee and occurs only randomly.

(3) *When verifiable payroll records are required with respect to a single employee and the employer does not maintain them as required in this rule, the entire payroll of the employee shall be assigned to the highest rated classification exposure* in accordance with the standards for rebilling set forth in OAR 836-043-0190.

(4) For purposes of this rule, payroll records of an employee are verifiable if they have the following characteristics:

(a) *The records must establish a time basis*, and the time basis must be hourly or a part thereof, daily or part thereof, weekly or part thereof, monthly or part thereof or yearly or part thereof;

(b) For each salaried employee, the records must also include time records in which the salary is converted to an hourly, daily, weekly, monthly or yearly rate and then multiplied by the time spent by the employee in each classification exposure;

(c) *The records must include a description of duties performed by the employee, to enable the insurer to determine correct classification assignment*. Records requiring additional explanation or interpretation are not considered to be verifiable; and

(d) The records must be supported by original entries from other records, including but not limited to time cards, calendars, planners or daily logs prepared by the employee or the employee's direct supervisor or manager. *Estimated ratios or percentages do not comply with the requirement of*

> *this subsection and are not acceptable for verification*. Verifiable records must be summarized in the insured employer's accounting records.

(Emphasis added). This rule sets forth the requirements for an employer that wants to split an employee's time between class codes. The primary requirement is that the employer maintain "verifiable time records" for each individual employee. Otherwise, as subsection (3) notes, the premium will be assessed at the highest rated classification exposure.

To be verifiable, the records must establish a time basis, and "must include a description of duties performed by the employee." Estimations of hours, including ratios or percentages, are not sufficient verification. With that framework in mind, I now look at employer's contention that it has presented verifiable time records to Travelers.

As noted, employer provided several thousand pages of backup information to Travelers to establish that its time records were verifiable. Because of the volume of documents, and the fact that employer modified its record-keeping over time, I will address the records month by month.

March 2010. Employer's time card system in March 2010 was used differently by different workers. Some of the cards simply showed an "8" for a specific date (Ex. T1 at 5); some listed different clients or jobs, but did not break down the hours (*Id*. at 22, 48); still others described job tasks but did not split the hours (*Id*. at 15, 70).

Much of the volume of the documents provided to Travelers by employer were invoices and estimates of different jobs performed by employer during the month. While these documents might provide sufficient verification of time records, there were no summary sheets to describe the type of work and to place a class code on each task. While employer probably would be able to match up those jobs to the specific work performed by its workers, the same is not true for the insurer.

The administrative rule requires that the records provided to the insurer need no additional explanation or interpretation. The records in March 2010 were not verifiable because the time sheets did not separate out the necessary information, and additional explanation and interpretation would be necessary for any verification.[5]

April 2010 through March 2011. For the same reasons set forth in the discussion of March 2010, the records for April 2010 through March 2011, inclusive, are likewise non-verifiable. The only exceptions in employer's records concern the time records of Timothy Yaws up through August 2010, Benjamin Crase in September and October 2010, and Joe S. in December 2010.[6] All three workers, during the months noted, worked in the office and designated that work on their time cards. Those specific records

[5] This is not to say that invoices and estimates cannot be part of the verification process, but the verifiable time record itself needs to be very clear so that the insurer can tell what tasks were being performed.

[6] Joe S.'s other time records for other months are not verifiable.

were verifiable, but all others during those months were not verifiable.

April 2011. In April 2011, employer began using a summary sheet to describe the work being done by the workers, present the number of hours, and give the appropriate class code. If accurate, the summary sheets could be verifiable records and the time sheets (and possibly the invoices) could be the supporting materials.

However, the summary sheets do not match the time records in many cases. For instance, workers Herrera and Joe S. presented time cards showing no shop time, but whoever prepared the summary added in shop time and lessened the amount of other time worked. It is unclear whether their time cards were incorrect and the employer was correcting them, or whether the time cards were accurate and the employer was changing the codes. Either way, there was no verifiability because the summaries did not match the underlying information.

Additionally, to cite examples of other problems with employer's records: worker Garcia used codes but no descriptions; Crase's time records had no detail, while the summary of his time did; and Carrasco's rendition of class code and client did not match the hours on the summary sheets. (See, e.g., Ex. T15 at 3, 4). Consequently, although the records are better than before employer began using a summary, they still were not verifiable under the rule.

May 2011 through December 2011. The time sheets and summaries in these months were similar to those in April 2011—much better than before, but still not verifiable under the rule.

January 2012 through March 2012. In January 2012, employer began using a sheet showing the actual jobs being performed, the number of hours for each job, and the appropriate classification code it applied. Contrary to Travelers' arguments, I conclude that these time records meet the standards of the verifiability rule, and are verifiable time records.

In summary, although employer kept increasingly good records over the two policy years in question, its records were not verifiable until the records beginning in January 2012.[7] The insurer must go back and apply the appropriate class codes and rates to the work between January and March 2012, and must also do the same for the records of Yaws, Crase and Joe S. when they were performing office work.

Independent Contractor Issues. Travelers contends that several persons performing work for employer, ostensibly as independent contractors, were actually subject workers for whom premium must be paid. With a few specific exceptions, I agree with Travelers.

Direction and Control. ORS 656.017 requires employers to carry workers'

[7] It is unfortunate that Travelers failed to communicate with its insured earlier in an effort to help the employer prepare verifiable time records that were satisfactory to Travelers.

compensation coverage for all subject workers. A "worker" is defined in ORS 656.005(30), which states in part:

> "Worker" means any person, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, subject to the direction and control of an employer[.]
>
> Under this statute, the key question to be answered in this case is whether the power washers were "subject to the direction and control" of an employer, in this case HMCS. An "employer," by definition, is:
>
> any person * * * who contracts to pay a remuneration for and secures the right to direct and control the services of any person.

ORS 656.005(13)(a).

The evidence indicates that the employer called a meeting of its power washers in approximately April 2010 to inform them that they could only continue performing their work if they became independent contractors because employer was no longer going to employ power washers. Employer then helped the power washers obtain some of the indicia of self-employment, such as business cards, registration for business names, etc.

Additional evidence establishes that, while some of the power washers actually developed their own companies as a result, most of the power washers continued to perform the same job for the same pay, with no real difference. Even those that did take additional jobs generally used employer's equipment to perform the additional duties.

These circumstances came to Travelers' attention when one of the power washers, Flores, was injured and filed a workers' compensation claim. The claim was found compensable, so Travelers began to review the status of the other power washers. For the first audit period, Travelers listed the following as the power washers it did *not* consider independent contractors:

- Sesar Beltran Monyoha
- Roberto Carrasco
- Francisco Guzman
- Ismael Guzman
- Luis Guzman
- Chico Roofing LLC
- Leonardo Gonzalez
- Miguel Flores
- Victor Manuel
- Moises Sotelo
- Hernan Montero
- Gabael Zardo
- Alfredo Arroyo

- Audemar Sanchez
- Walter Posadas
- Ricardo Ruiz
- John St. Helen
- Raymond Stuck
- Javier Trujano
- Jose Garcia
- Spencer Wheless
- Jim Yawa

(Ex. R44 at 3-4). From this list, I infer (based upon employer's argument, and the lack of a response by Travelers) that others not listed here but with documentation as independent contractors have been accepted by Travelers as independent contractors and no premium has been assigned to them. These include A&M Sunset Roofing, Premier Pacific Roofing, Inc., Annika & Sergio's Floorcovering LLC, Jon Magers, Powell Roofing LLC, and Vision Roofing LLC. There appears to be no dispute concerning these companies' independent status, so any amounts paid to these entities would be excluded.

Chico Roofing. The information in Exhibit R44 is ambiguous concerning this company, which was primarily owned by the Guzmans. It states that it is "excluded," suggesting that it is considered an independent contractor, but no amounts were assigned to it (while amounts were assigned to the Guzmans individually).

During the hearing, testimony from the employer established that Travelers' backed out almost $30,000 from its premium based on information it received about Chico Roofing—thereby explaining the zero balance shown in Exhibit R44.

Employer also argues that two of the Guzmans could have elected to be exempt from coverage, and employer is correct. However, the nature of an "election" is that it must be exercised. There is no basis in the law for an administrative law judge to designate an exemption in the absence of an election by the person with the right to exercise it.

The evidence shows that Travelers made adjustments to its premium audit when it determined Chico Roofing was excluded. It is unclear why, therefore, the Guzmans individually are still listed. I do not have evidence to indicate that what was "backed out" was the amounts paid to them under Chico Roofing; and, in fact, the amounts do not jibe.

If all or any portion of the monies paid to the Guzmans was what was backed out by Travelers as excluded under Chico Roofing, then those amounts should be removed from the audit as well.

All Other Contractors. Using the right to control test, the evidence clearly shows that employer retained the right to control the work done by the power washers even after they were given the opportunity to become independent contractors. When employer gave them the opportunity to start their own businesses, for most of them nothing

changed in regards to the work they did, the hourly wage they received, and the means by which they were paid.

Insurer contends that employer retained direction and control over the power washing staff, and that they were employees for purposes of the workers' compensation statute. In Oregon, the courts look to four factors to determine whether there is direction and control:

- Whether there is direct evidence of the right to control;
- Whether the employer furnishes tools and equipment;
- The method of payment; and
- The right to discharge without liability.

Oregon Drywall Systems v. NCCI, 153 Or App 662, 666 (1998). Further, Professor Larson notes that proof of even one of these factors tends to establish conclusively that the supposed contractors were actually subject workers. *1B Larson, Law of Workmen's Compensation*, 8-90, §44.31 (1990).

In this case, the washers continued to perform the same duties for employer's customers, using employer's equipment. Even when some of them performed other duties (what one would expect of an independent contractor), they would use employer's equipment at employer's insistence. Under the right to control test, therefore, the putative contractors remained subject workers.

Relative Nature of the Work. As a secondary test, if the direction and control factors are inconclusive, the courts look to the "relative nature of the work" test. Under that test, the courts look to whether the work the putative contractors are performing is a separate calling or enterprise, or whether it is a regular part of the employer's business. *Rubalcaba v. Nagaki Farms, Inc.*, 333 Or 614, 627 (2002).

In this case, the direction and control factors conclusively show that the power washers, with the few noted exceptions who actually developed a business, were employees. However, even if those factors had not established an employment relationship, the secondary test would have. It is clear that power washing a roof was a duty that was an integral and regular part of employer's business.

Summary. Travelers' billings to employer have been confusing, but the parties generally agree that the amounts it is now seeking are $150,630 in the first policy period and $79,270 in the second policy period. (Ex. R54). Based upon the decisions set forth herein, Travelers must:

- Redetermine Luis Casteneda Guzman's pay at the correct rate;
- Redetermine class codes for Yaws, Crase and Joe S. while they were working in the office; and
- Redetermine class codes for the three months of January 2012 through March 2012 because the time records have been considered verifiable.

Travelers shall issue updated audit billings based upon these changes, and explain the changes in the body of the updated audit billings. In all other matters, the Final Premium Audit Billings are affirmed.

PROPOSED ORDER

I propose that the department issue the following final order:

That the Final Premium Audit Billings dated February 7, 2012 and June 20, 2012, be AFFIRMED AS MODIFIED.

Rick Barber
Administrative Law Judge
Office of Administrative Hearings

Notice of Right to File Exception to Proposed Order

If the proposed order is adverse to a party, then the party has the right to file written exceptions to the order and present written argument concerning those exceptions pursuant to ORS 183.460. A party may file the exceptions and argument by sending them to the Insurance Division by delivering them to the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailing them to P.O. Box 14480, Salem, Oregon 97309-0405; or faxing them to503-378-4351; or e-mailing them to mitchel.d.curzon@state.or.us. The Insurance Division must receive the exceptions and argument within 30 days from the date this order was sent to the party.

CERTIFICATE OF SERVICE

On the 6th day of March 2013, I mailed the foregoing in Reference No. **1202002.**

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