STATE OF OREGON

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

DIVISION OF FINANCIAL REGULATION

IN THE MATTER OF:	)	AMENDED FINAL ORDER
TRITAC SHOOTING SOLUTIONS,	)	OAH No. 15-10-001
LLC	)	Agency Case No.: 15-10-001

Amended Final Order

The Director of the Oregon Department of Consumer and Business Services (Director) hereby withdraws the Final Order that was issued July 15, 2016 and reissues this Amended Final Order to correct language found in the Order.

Procedural History

The Director of the Oregon Department of Consumer and Business Services (Director), by and through Division of Financial Regulation, formerly the Insurance Division, (Division), commenced the above entitled administrative proceeding to review a workers' compensation insurance final premium audit billing (billing) issued by SAIF Corporation (insurer) to Tritac Shooting Solutions, LLC (Tritac), pursuant to Oregon Revised Statutes (ORS) 737.256(1), ORS 737.505(3), and Oregon Administrative Rules (OAR) 836-043-0200 *et. seq.*

Tritac is an indoor shooting range and retail gun store with approximately five to six employees. When the insurer audited the business for the 2014 policy year, the insurer determined that the only appropriate classification code for all of the employees was 9180.[1] Tritac disagreed with the insurer's interpretation, seeking a separate code 8017[2] for the work in support of the gun shop. Tritac appealed the determination to The Oregon Review and Advisory Committee (ORAC).

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[1] Scopes Manual , National Scopes, Posted 18 Dec 2015. 9180 - Amusement Device Operation, Cross-Ref Club – Shooting & Drivers.

[2] Scopes Manual , National Scopes, Posted 18 Dec 2015. 8017 Store – Retail

On August 3, 2015 ORAC issued a Case Summary and Decision to Tritac denying its request to apply Classification code 8017 to a portion of its business. On August 13, 2015, Tritac filed an appeal of the ORAC decision with the Division. On October 1, 2015 the Division referred the hearing request to the Office of Administrative Hearings (OAH).

By Proposed Order dated January 12, 2016, Administrative Law Judge Rick Barber granted employer's motion for summary determination based upon the following Conclusion of Law: Tritac is not currently entitled to an exception from classification code 9180 for its employees when they are working in the retail store, but will be if Tritac begins keeping verifiable time records.

On February 11, 2016, the National Council on Compensation Insurance, Inc. (NCCI), the authorized representative for ORAC, served exceptions upon the Division. Tritac filed a Response to the NCCI Exceptions on February 12, 2016. On April 1, 2016, the Division forwarded the exceptions and the response to OAH. On April 21, 2016 ALJ Rick Barber submitted a Response to Exceptions.

The Director has reviewed the entire record and additional submissions in this matter.

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 the Proposed Order and the Response to Exceptions as the findings of fact, conclusions of law, and reasoning of this final order.

Order

TRITAC SHOOTING SOLUTIONS LLC's Motion is GRANTED. ORAC/NCCI will be directed to apply an exception to code 9180 to Tritac employees when they are working in the retail store once Tritac keeps verifiable time records.

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 July 22, 2016

John Paul Jones
Deputy Administrator
Department of Consumer and Business Services