

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

IDAHO INDUSTRIAL COMMISSION,

v.

SEABRIGHT INSURANCE CO.,

Surety.

**ORDER ON THE POTENTIAL  
WITHDRAWAL OF AUTHORITY TO  
WRITE WORKERS' COMPENSATION  
INSURANCE IN THE STATE OF IDAHO**

On June 25, 2015, the Commission entered its Order to Show Cause why the authority of Seabright Insurance Co. ("Seabright") to write workers' compensation insurance in the State of Idaho should not be withdrawn by reason of its failure to pay the award of attorneys' fees made by the Commission in its Order of March 31, 2015. That Order contained a description of the facts known to the Commission as of the date of the Order. It was followed by a supplement to the Order to Show Cause dated July 21, 2015 containing the results of further investigations undertaken by Commission staff in connection with the matter.

At hearing the Commission heard the testimony of Scott McDougall, the Manager of the Industrial Commission Benefits Department; Dave Ward, President of Intermountain Claims, Inc.; and Mario Bostillo of Seabright Insurance. The Commission has considered the testimony and explanations offered by Seabright, and its agents, and comes to the following conclusions on the facts and inferences, which originally led the Commission to entertain withdrawal of Seabright's authority to write workers' compensation insurance in this state.

It is undisputed that no payment was made on the Commission's March 31, 2015 Order Awarding Attorney's Fees in the amount of \$2,816.72 until Mr. Owen, representing Claimant, received a check in that amount on July 2, 2015. This delay, while unreasonable, is largely explained by the failure of Mr. Bailey's office to take appropriate action on orders of the

Commission and pleadings filed by the opposing party. Mr. Bailey has explained that due to a personnel problem in his office, he was altogether unaware that the March 31, 2015 Order had not been satisfied by Surety until he received a phone call from Deputy Attorney General Blair Jaynes on June 24, 2015. With Mr. Bailey's explanation, we are satisfied that none of the delay in payment up until June 24, 2015 can be laid at the feet of Seabright Insurance, notwithstanding that Mr. Bailey is assuredly Seabright's agent in this regard. We will not sanction Seabright where it is clear it had no hand in the delays stemming from the treatment of these matters given by Mr. Bailey's office.

The testimony and other evidence reflects that Intermountain Claims, Inc., the third-party administrator for Seabright Insurance, was notified of the obligation to pay the award of attorney's fees when contacted by Mr. Bailey on June 24, 2015. There remains for the Commission to consider whether Seabright acted in timely fashion to pay the award, and whether any of its actions amount to out-of-state adjusting of the claim in question. We are satisfied that Seabright, through Intermountain Claims, Inc., acted in timely fashion to pay the award. Further, we find no evidence to suggest that Seabright acted in derogation of Idaho Code § 72-305 and IDAPA 17.02.10.051 by adjusting the claim from without the State of Idaho. It appears that the Intermountain adjuster who originally ordered the check on the Seabright computer system inadvertently requested that the check be made payable to Claimant. As explained by Mr. Ward, it ordinarily takes a business day for Seabright to "review" or "approve" such a check request. In this case, Seabright employees noted that the check was requested for the payment of attorney's fees, yet was made payable to Claimant. This apparent contradiction caused Seabright to question Intermountain Claims, Inc., to verify that this was intended. Mr. Ward recognized that there was an error and requested that Seabright issue a check payable to Mr. Owen. Seabright



## CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of August, 2015, a true and correct copy of the foregoing ORDER ON POTENTIAL WITHDRAWAL OF AUTHORITY TO WRITE WORKERS' COMPENSATION INSURANCE IN THE STATE OF IDAHO was served by regular United States Mail upon each of the following:

SEABRIGHT INSURANCE CO.  
Chief Executive Officer  
1501 4<sup>th</sup> Avenue, Suite 2600  
Seattle, WA 98101

DEAN CAMERON, DIR.  
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Courtesy Copy to:

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/s/