

FILED

2013 DEC 10 A 9:42

Hearing Unit, D/C
Patrick L. Fishman
Clerk

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In re the Matter of

EDMUND C. SCARBOROUGH, and
WALTER W. WOLF,

Respondents.

No. 13-0084

RESPONDENT SCARBOROUGH'S
OPPOSITION TO OIC'S MOTION TO
COMPEL

I. INTRODUCTION

This proceeding concerns the validity of a cease and desist order and its underlying premise that one must have a certificate of authority from the OIC before issuing fully collateralized individual surety bonds in Washington. If the cease and desist order were upheld, the sole remaining issue would be the appropriate amount of fine to be imposed—a matter on which the OIC has yielded its discretion to this tribunal. A related question is whether the OIC lacked jurisdiction over a majority of Respondent Scarborough's bonds, making them irrelevant to this proceeding, because they related to federal projects and were accepted by the federal government under federal law.

Notwithstanding the narrow issues involved and Mr. Scarborough's contention that the OIC lacks authority over individual surety bonds, the OIC served extensive and broad discovery requests. In addition, it asked the hearing officer to issue a broad subpoena duces tecum to Wells Fargo Bank, which acted solely as a trustee of assets and has opposed issuance of the subpoena on multiple grounds. Mr. Scarborough initially answered the

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interrogatories, with about half the answers being subject to specific objections, and produced documents. After a CR 26(i) conference, Mr. Scarborough supplemented his initial production with 365 pages of documents, including a complete set of bond documents for every bond he ever issued in Washington and a trust agreement with Wells Fargo. While the subpoena request remains pending, the OIC has now moved to compel “full [and] complete” responses to its 74 discovery requests and all of their numerous subparts. The OIC further asks the hearing officer to deem all objections waived, as a sanction.

Mr. Scarborough requests that the motion to compel and request to deem all objections waived be denied. In addition, Mr. Scarborough requests that the hearing officer exercise her discretion under RCW 34.05.446(3), WAC 284-02-070(2)(e)(iii), and CR 26(c) to define the scope of the OIC’s discovery requests. In any event, Mr. Scarborough does not oppose a continuance of two months or more, as the pending litigation between the city of Clarkston and its contractor that could implicate one of Mr. Scarborough’s bonds will likely be resolved soon, and that could simplify this OIC matter or possibly facilitate a settlement.

II. STATEMENT OF FACTS

A. Background.

Most of the pertinent facts are stated in Mr. Scarborough’s amended declaration dated November 17, 2013, which was submitted with and summarized in his opposition to the OIC’s request for subpoena. To recap briefly, individual surety bonds are an alternative to corporate surety bonds, authorized under Washington law. See RCW 19.72.020 through .040; RCW 39.08.010(4); RCW 48.28.010. Corporate surety bonds are often unavailable to smaller contractors, many of which are minority-owned.¹ Mr. Scarborough operates the Scarborough Bond Program, through which he issues fully collateralized individual surety bonds, meaning that each bond is backed by a specific asset that is designated as security for

¹ Scarborough Decl. (Amended), ¶ 2.

only that bond.² The program is designed to meet the strict requirements of the Federal Acquisition Regulation, which requires that individual surety bonds for a federal public works contract be fully collateralized, such as by a security interest granted in property with a value at least equal to the amount of the contract, as verified by the government contracting officer.³

Mr. Scarborough issued a total of 22 bonds in Washington, all during the years 2009-2012.⁴ Twelve of those—more than half—related to work procured by the federal government, where the bonds were reviewed, accepted, and approved by the federal government pursuant to the Federal Acquisition Regulation.⁵ Of the remaining 10 bonds, eight related to non-federal public projects (including the city of Clarkston project), one project was for Boeing, and one was for a private mining company.⁶ Mr. Scarborough has ceased issuing bonds in Washington. All projects where he issued bonds are now completed, and except with respect to the Skyline-Clarkston bond, all bonds and claim-filing periods have expired.⁷

B. OIC Investigation and Cease and Desist Order.

The OIC commenced an investigation in September 2012 at the instance of attorneys for the city of Clarkston, which is embroiled in litigation with contractors regarding a completed renovation project.⁸ Mr. Scarborough's attorneys provided information regarding bonds issued in Washington.⁹ The OIC completed its investigation and issued a cease and desist order dated March 8, 2013. The order characterized the sale of individual surety bonds

² *Scarborough Decl. (Amended)*, ¶ 2.

³ *Id.*; see 48 C.F.R. §§ 28.203, 28.203-1.

⁴ *Scarborough Decl. (Amended)*, ¶ 8.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *See id.*

⁹ *Scarborough Decl. (Amended)*, ¶ 8 & Exh. C.

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as an unauthorized transaction of insurance and directed Mr. Scarborough and Walter Wolf (a co-surety) to cease and desist immediately from such transactions. Simultaneous with the cease and desist order, the OIC issued a notice of request for hearing for imposition of fines. In response to the order and notice, Mr. Scarborough formally denied that he violated the insurance code and that any fine should be imposed, and requested a hearing on the cease and desist order.

The notice of hearing issued by the hearing officer identifies the two issues properly raised for determination at the hearing as (1) whether Mr. Scarborough and Mr. Wolf were required to have certificates of authority and (2) whether they operated as surplus lines brokers without the required license:

Specifically, as stated in the Notice of Request for Hearing, the OIC alleges that by being listed and signing their names as individual sureties on a performance bond issued relative to a City of Clarkston, Washington construction project, the Respondents acted as insurers without having a proper Certificate of Authority in violation of RCW 48.05.030(1). Additionally, the OIC alleges that by soliciting and transacting insurance business in this state on behalf of an unauthorized insurer without being licensed as surplus lines brokers, the Respondents violated RCW 48.15.020, and RCW 48.15.070.¹⁰

C. OIC Discovery Requests and Request to Issue Subpoena.

The hearing was initially set for June 2013 but was continued by stipulation after the OIC assigned a different staff attorney. In September 2013, six months after the initial demand for hearing, the OIC served Mr. Scarborough with 74 discovery requests, including 44 interrogatories and 30 requests for production, most of which have multiple subparts.¹¹ On October 28, 2013, Mr. Scarborough timely responded with answers and production of documents.¹² Although about half of the answers were subject to objections, Mr.

¹⁰ *Notice of Hearing* filed September 27, 2013, at 2.

¹¹ *Exh. A to Singer Decl.*

¹² *See Exh. B to Singer Decl.*

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Scarborough answered all but five of the 40 substantive interrogatories notwithstanding the objections.¹³ The objections were specific to the subject of each interrogatory, and therefore cannot be summarized briefly here, but include the reasons why each request is overly broad or unduly burdensome, particularly considering the narrow issues involved in this proceeding.¹⁴

D. CR 26(i) Conference and Supplemental Productions.

On November 1, 2013, the OIC requested (1) a CR 26(i) conference regarding the discovery requests and (2) a prehearing conference to request issuance of a subpoena duces tecum directed to Wells Fargo Bank. The OIC also sent a letter purporting to expand the issues for hearing to include matters beyond those identified in the cease and desist order and notice of hearing, such as sufficiency of collateral and claim administration practices.¹⁵

The CR 26(i) conference was held on November 13, 2013.¹⁶ The OIC, through its staff attorney, identified several of the interrogatories as having been answered in full, including nos. 4, 11, 12, 20, 21, and 24; and suggested that other answers were incomplete, but did not specifically address every interrogatory.¹⁷ During the conference, the OIC agreed that certain (as yet unspecified) discovery requests would be deemed satisfied, and that others may be rendered moot, if Mr. Scarborough would (1) provide a sworn declaration regarding the number of bonds issued in Washington and the status of those bonds and (2) produce a complete set of bond documents for all bonds issued in Washington.¹⁸

¹³ The only substantive interrogatories to which Mr. Scarborough objected, without providing any substantive answer, are nos. 16, 29, 31, 36, and 39. Most of those objections were based on confidentiality and trade-secret protection. Interrogatories 40-44 are not substantive but request lists of witnesses, experts, and evidence. See Exh. B to *Singer Decl.*

¹⁴ See Exh. B to *Singer Decl.*

¹⁵ Exh. C to *Singer Decl.*

¹⁶ *Anderson Decl.*

¹⁷ *Id.*

¹⁸ *Id.*

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On November 15, 2013, Mr. Scarborough produced complete bond documents for 13 bonds, plus a Trust Indenture and Security Agreement with Wells Fargo.¹⁹ On November 18, 2013, Mr. Scarborough produced complete bond documents for an additional nine bonds, thus completing production of the bond documents for all bonds issued by Mr. Scarborough in Washington.²⁰ In total, Mr. Scarborough produced 365 pages of documents after the CR 26(i) conference.²¹ On November 18, 2013, Mr. Scarborough provided his amended declaration (dated November 17) detailing his bond activities in Washington and the status of the bonds.²² On November 19, 2013, Mr. Scarborough supplemented his answer to interrogatory no. 8 with a full and complete answer.²³

III. AUTHORITY AND ARGUMENT

A. Discovery Is Discretionary with the Hearing Officer.

Discovery in administrative proceedings is discretionary with the hearing officer. RCW 34.05.446(3). If discovery is permitted, the hearing officer “may condition use of discovery on a showing of necessity and unavailability by other means.” *Id.* Discovery is presumptively permitted in OIC hearings because the commissioner has by regulation adopted CR 26 through 37, such that discovery may be had under those rules without first obtaining the hearing officer’s permission. WAC 284-02-070(2)(e)(i). Nevertheless, the rule preserves the hearing officer’s discretion and authority to condition or limit discovery to require a showing of necessity and unavailability by other means as provided in RCW 34.05.446(3). WAC 284-02-070(2)(e)(iii). The factors properly considered by the hearing officer in ruling on discovery requests include whether the discovery would result in undue expense or delay. RCW 34.05.446(3).

¹⁹ Exh. 1 to *Anderson Decl.*

²⁰ Exh. 2 to *Anderson Decl.*

²¹ *Anderson Decl.*

²² *Id.*

²³ *Anderson Decl.* & Exh. 3.

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B. Mr. Scarborough Answered the Discovery.

For unknown reasons, notwithstanding the discussion during the CR 26(i) conference acknowledging that several discovery requests had been satisfied and that others would be satisfied by a supplemental production and declaration, the OIC fails to acknowledge *any* of the answers provided or documents produced by Mr. Scarborough. Implying that Mr. Scarborough provided no substantive answers, the OIC asserts that Mr. Scarborough met its requests “*only...with rafts of dilatory, boilerplate objections and utterly nonresponsive ‘answers’ and ‘responses.’*”²⁴ *Motion* at 3. This OIC ignores that Mr. Scarborough timely responded with answers, some subject to objections, and has produced hundreds of pages of responsive documents, including complete production of all bond documents. Moreover, the OIC ignores Mr. Scarborough’s significant supplemental production following the CR 26(i) conference, asserting, “Respondent has not supplemented his discovery response.”²⁵ This is not accurate.

C. The Hearing Officer Should Define the Scope of Discovery.

The OIC has the documents and information it can legitimately claim to need in this matter and does not specify what more is essential or why. The OIC conducted an investigation prior to entering the cease and desist order, and presumably obtained information it deemed sufficient to enter such an order. While it initially appeared that the OIC was content to go to hearing based on that information, six months later it changed course and propounded the broad and extensive discovery requests now at issue. Mr. Scarborough has made a good faith effort to provide the relevant documents and information. The OIC now has a complete set of bond documents for every bond Mr. Scarborough ever issued in Washington, including all the irrevocable trust receipts issued by Wells Fargo, plus

²⁴ *Motion* at 3 (emphasis added).

²⁵ *Motion* at 2.

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an underlying agreement with Wells Fargo.²⁶ It also has Mr. Scarborough's sworn declaration detailing his Washington bond activity and the status of the bonds. The scope and extent of additional information and materials discovery sought by the OIC is not warranted, based on the issues involved.

The OIC casts a wide net with its discovery requests. It would take many pages to discuss all of the OIC's discovery requests and their overbreadth in detail. A few examples will be illustrative. For instance, the OIC requests that Mr. Scarborough disclose all of the personal income and sources of income for him and his wife in the past ten years:

INTERROGATORY NO. 7. Please provide a statement of your net worth and solvency (i.e., a summary of your assets and liabilities). As part of your answer, please provide your and your wife's annual income from your bond and financial guarantee issuing activity from 2003 to the present, and any other sources of income, and disclose any State or Federal tax liens and bankruptcies.

This has no relation to the fully collateralized bonds at issue here. In addition, the OIC requests that Mr. Scarborough identify *all* coal assets in which Mr. Scarborough or any of 13 entities has an interest, including the precise locations, prior owners, and terms of purchase:

INTERROGATORY NO. 17. Please identify all coal, actual mined coal, coal-containing real property, and coal mines owned or purchased (a) by you, (b) by any of the entities listed in subparts (a) through (m) of interrogatory number one above, or (c) by the principals, officers, directors, owners, shareholders, and employees of the entities listed in subparts (a) through (m) of interrogatory number one above. As part of your answer, please identify and describe (a) the location and lands of the coal, actual mined coal, coal-containing real property, and coal mines (including but not limited to Nicholas and Pike county property locations and land descriptions), (b) the person or persons from whom this coal, property or mines were most recently purchased, and (c) the purchase price and purchase terms when the property was most recently purchased.

The OIC further requests that Mr. Scarborough detail *all* coal sales and *all* valuations of coal assets by any entities Mr. Scarborough or his wife ever had any connection with:

²⁶ *Anderson Decl.*

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INTERROGATORY NO. 18: Please identify and describe, covering the ten-year period preceding today's date, all coal sales that directly or indirectly benefitted you, or were made or directed by you, or were made or directed by any entity you or your wife are in control of or are or were a principal, officer, director, owner, shareholder, or employee of. As part of your answer, please indicate (a) the amount of coal sold in each sale, (b) the dates of the processing of the coal sold in each sale, (c) where the coal was mined from, (d) the identity of the buyers, (e) the amount of money the coal was sold for, and (f) for each coal sale to pay or satisfy a bond or financial guarantee claim, the identity of the claimants, the claim settlement amounts, if any settlement fell short of the full claim amount.

...

INTERROGATORY NO. 19: Please identify all persons (such as engineers, miners, mining companies, coal processors, lab technologists, and geologists) who have provided an opinion, evaluation, analysis, or reasoned assessment of the valuation, character and/or the value of the coal, actual mined coal, coal-containing real property, and coal mines related to your bonds, financial guarantees, and bond and financial guarantee issuing activity. As part of your answer, please identify all documents such as studies, reports, evaluations, and reasoned assessments that set forth the value, costs, or cost-effectiveness of mining and selling the coal, coal-containing real property, and coal mines related to your bonds, financial guarantees, and bond and financial guarantee issuing activity.

The OIC requests this and even more specific information regarding bond issuing activities nationwide in the past ten years, all without justification and without regard for the OIC's jurisdictional limitations:

INTERROGATORY NO. 31: Please indicate the total number, and the total aggregate coverage amount, of in-force bonds and in-force financial guarantees for each month since January 2003. (An "in-force" bond or financial guarantee means a bond or financial guarantee which has not yet closed or expired and remains active and subject to liability in the event of a valid claim. For example, if you had 10 (ten) \$100,000 bonds or financial guarantees active in January 2003, your answer would indicate that in January 2003, you have 10 (ten) in-force bonds or financial guarantees with an aggregate value of \$1 million dollars.)

While the OIC insists on this broad discovery regarding Mr. Scarborough's nationwide activities and personal financial information and assets, no suggestion is made in the cease and desist order or the notice of request for hearing for imposition of fines that any

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of Mr. Scarborough's bonds was not sufficiently collateralized. The cease and desist order, entered after an extensive investigation, merely alleges that Mr. Scarborough acted as a surety insurer without a certificate of authority or being licensed as a surplus lines broker. The OIC's broad requests are beyond the scope of this proceeding. Furthermore, it would impose an undue burden on Mr. Scarborough, considering the issues involved in this matter, to require him to respond to all of the OIC's broad and highly detailed interrogatories and produce all of the requested documents. *See* CR 26(c).

Mr. Scarborough has provided answers, some subject to objections, and provided the information the OIC could arguably need to address the issues in this proceeding. In these circumstances, the hearing officer should exercise her discretion to define the scope of discovery and require the OIC to make a showing of necessity and unavailability of the information by other means. RCW 34.05.446(3); WAC 284-02-070(2)(e)(iii); CR 26(c). Such a showing has not been made. Should the hearing officer nevertheless conclude that the OIC should be allowed to obtain some additional information at this point, Mr. Scarborough requests an opportunity to seek protection of confidential or trade secret information as appropriate, either by an agreed protective order or, absent agreement, by seeking relief from the hearing officer on those specific grounds.

D. No Sanction Should Be Imposed.

The OIC cites no authority for the proposition that Mr. Scarborough should be deemed to have waived any and all objections to the discovery requests. Nor has the OIC made a case for imposing this harsh sanction, particularly where discovery is discretionary in the first instance, and the hearing officer has discretion to condition or limit discovery. The OIC's contention that Mr. Scarborough objected to discovery requests "without any explanation" is not correct.²⁷ Mr. Scarborough has repeatedly explained, in the CR 26(i)

²⁷ *Motion* at 4.

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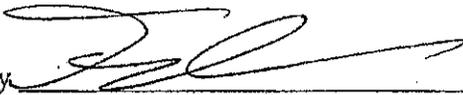
conference and in the objections themselves, that certain requests encompass information and documents far beyond the scope of this proceeding, including any legitimate issue the OIC has raised or could raise that could bear upon the appropriate amount of fine, if any. Mr. Scarborough also provided answers and produced voluminous documents. Interrogatories may be answered by reference to business records. CR 33(c); *Lang v. Wash. State Dep't of Health*, 138 Wn. App. 235, 354, 156 P.2d 919 (2007) (affirming hearing officer's exercise of discretion to deny motion to compel). No sanction is warranted.

IV. CONCLUSION

The OIC's broad discovery requests are not justified. The hearing officer should deny the motion to compel and the request to deem all objections waived. The hearing officer should exercise her discretion to define the scope of discovery by requiring a showing of necessity and unavailability of the information by other means—a showing that has not been made. Regardless, the hearing officer should continue the hearing at least two months.

DATED this 9th day of December, 2013.

CARNEY BADLEY SPELLMAN, P.S.

By 

Timothy J. Parker, WSBA No. 8797

- Jason W. Anderson, WSBA No. 30512

Attorneys for Edmund C. Scarborough

RESPONDENT SCARBOROUGH'S
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DECLARATION OF SERVICE

I, Christine Williams, under oath hereby declare as follows: I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, and not a party to nor interested in this action. On December 9, 2013, I caused to be delivered via e-mail and U.S. mail a copy of the foregoing document on the following parties at the last known address as stated:

Judge Patricia Petersen – ORIGINAL Chief Hearing Officer Office of the Insurance Commissioner 5000 Capitol Boulevard Tumwater, WA 98501 kellyc@oic.wa.gov	<u>Attorney for OIC</u> Alan Michael Singer, Staff Attorney Legal Affairs Division Office of Insurance Commissioner P.O. Box 40255 Olympia, WA 98504-0255 alans@oic.wa.gov
<u>Attorney for Walter W. Wolf</u> James A. McPhee Workland & Witherspoon, PLLC 601 W Main Avenue, Suite 714 Spokane, WA 99201 jmcphee@workwith.com	<u>Attorneys for Edmund C. Scarborough</u> Michael M. Miles Duane Morris LLP 100 North City Parkway, Suite 1560 Las Vegas, NV 89106-4617 mmmiles@duanemorris.com

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED this 9th day of December, 2013.



Christine Williams, Legal Assistant

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In re the Matter of

EDMUND C. SCARBOROUGH, and
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Respondents.

No. 13-0084

DECLARATION OF JASON W.
ANDERSON IN SUPPORT OF
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JASON W. ANDERSON declares:

1. I am a lawyer with the firm of Carney Badley Spellman, P.S., as is Timothy J. Parker, and we represent Respondent Edmund C. Scarborough in this matter.
2. On November 13, 2013, Tim Parker and I participated in a telephone conference with Alan Singer of the OIC to discuss, among other things, the OIC's discovery requests in this matter and Mr. Singer's lack of satisfaction at that time with Mr. Scarborough's responses to those requests.
3. Some, but not all, of the OIC's interrogatories were discussed specifically during the November 13 telephone conference. Although Mr. Singer identified several interrogatories to which he believed a complete answer had not been given, he also acknowledged that some interrogatories were answered completely, including specifically numbers 4, 11, 12, 20, 21, and 24.

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ANDERSON IN SUPPORT OF
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4. After discussing some of the interrogatories, Mr. Singer stated that a primary concern that he sought to address through the discovery requests was a lack of confidence that he knew the full extent of Mr. Scarborough's bond-issuing activities in Washington. Mr. Parker asked whether that concern would be satisfied by production of a complete set of bond documents for every bond Mr. Scarborough had ever issued in Washington and a sworn declaration by Mr. Scarborough regarding the extent of his bond-issuing activities and the status of the bonds. Mr. Singer responded that he believed it would be, but without identifying the specific discovery requests he would deem satisfied.

5. On November 15, 2013, I produced to Mr. Singer on behalf of Mr. Scarborough complete bond documents for 13 bonds, plus a Trust Indenture and Security Agreement with Wells Fargo. Attached as **Exhibit 1** is a true and correct copy of a cover letter sent to Mr. Singer with this supplemental production.

6. On November 18, 2013, I produced to Mr. Singer on behalf of Mr. Scarborough complete bond documents for an additional nine bonds. Attached as **Exhibit 2** is a true and correct copy of a cover e-mail sent to Mr. Singer with this supplemental production. In total, we produced 365 pages of documents after the November 13 telephone conference.

7. On November 18, 2013, Mr. Scarborough provided his amended declaration (dated November 17) detailing his bond activities in Washington and the status of the bonds. Mr. Scarborough confirmed that the 22 bonds produced to the OIC represented the full extent of his bond-issuing activity in Washington. A copy of the declaration is submitted separately.

8. On November 19, 2013, after a specific request by Mr. Singer, I supplemented Mr. Scarborough's answer to interrogatory no. 8. Attached as **Exhibit 3** is a true and correct copy of my e-mail exchange with Mr. Singer.

DECLARATION OF JASON W.
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I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

DATED this 9th day of December, 2013.



Jason W. Anderson

DECLARATION OF JASON W.
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DECLARATION OF SERVICE

I, Christine Williams, under oath hereby declare as follows: I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, and not a party to nor interested in this action. On December 9, 2013, I caused to be delivered via e-mail and U.S. mail a copy of the foregoing document on the following parties at the last known address as stated:

Judge Patricia Petersen – ORIGINAL Chief Hearing Officer Office of the Insurance Commissioner 5000 Capitol Boulevard Tumwater, WA 98501 kellyc@oic.wa.gov	<u>Attorney for OIC</u> Alan Michael Singer, Staff Attorney Legal Affairs Division Office of Insurance Commissioner P.O. Box 40255 Olympia, WA 98504-0255 alans@oic.wa.gov
<u>Attorney for Walter W. Wolf</u> James A. McPhee Workland & Witherspoon, PLLC 601 W Main Avenue, Suite 714 Spokane, WA 99201 jmcphee@workwith.com	<u>Attorneys for Edmund C. Scarborough</u> Michael M. Miles Duane Morris LLP 100 North City Parkway, Suite 1560 Las Vegas, NV 89106-4617 mmmiles@duanemorris.com

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED this 9th day of December, 2013.



Christine Williams, Legal Assistant

DECLARATION OF JASON W.
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November 15, 2013

VIA LEGAL MESSENGER

Mr. Alan M. Singer
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

Re: In re Edmund Scarborough

Dear Mr. Singer:

As a supplement to Mr. Scarborough's responses to the OIC's discovery requests, enclosed are document nos. SCA 00001-00223.

Documents SCA 00001-00046 are responsive to Requests for Production Nos. 14, 15 and 27, and documents SCA 00047-00223 are responsive to Requests for Production Nos. 15 and 30.

If you have any questions, please contact us.

Sincerely,

CARNEY BADLEY SPELLMAN, P.S.



Jason W. Anderson

JWA:cw
Enclosures

From: Anderson, Jason
To: "alans@olc.wa.gov"
Cc: MMMiles@duanemorris.com; Parker, Tim; Williams, Christine
Subject: RE: In re Scarborough and Wolf - No. 13-0084
Date: Monday, November 18, 2013 8:56:28 AM
Attachments: ACIPPO6052009-Echo Bay Minerals Tailings 5,328,029.pdf
ACIPPO6262009-Levernler Freeman High School: \$1,245,186.pdf
ACIPPO11182009B-Graham SCC Technical Educ: \$934,883.pdf
ACIPPO11182009C-Graham Coulee Medical Ctr: \$1,375,362.pdf
SKYLINEPP09152009-City of Chewelah Bridge: \$281,959.pdf
SMOKEYPP01262011-City of Arlington Airport: \$22,254.pdf
TOWNSENDPP02172011-Federal E&C Hanford: \$645,454.pdf
TOWNSENDPP09022010-Skanska USA Hanford: \$5,834,707.pdf
121221 WPCS Honeywell Final Bond Executed \$101825 (3).pdf

Alan,

On Friday, per our agreement we delivered to your office copies of the bond documents for the 13 Scarborough bonds previously identified as having been issued in Washington. After additional searching, it was determined that Scarborough issued 9 more bonds not previously identified as having been issued in Washington. Attached to this message are the bond documents for the 9 additional bonds. Mr. Scarborough's declaration was amended accordingly.

Let me know if you have any questions.

-Jason



Jason W. Anderson, Principal
206-607-4114 Direct | 206-622-8020 Main
[Bio](#) | [vCard](#) | [Address](#) | [Website](#)
anderson@carneylaw.com

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Pursuant to U.S. Treasury Circular 230, this communication is not intended or written by Carney Badley Spellman, P.S. to be used, and it may not be used by you or any other person or entity, for the purpose of (i) avoiding any penalties that may be imposed on you or any other person or entity under the United States Internal Revenue Code, or (ii) promoting, marketing, or recommending to another party any transaction or matter that is addressed herein.

From: Williams, Christine
Sent: Monday, November 18, 2013 8:49 AM
To: kellyc@olc.wa.gov
Cc: 'alans@olc.wa.gov'; 'jmcphoe@workwith.com'; MMMiles@duanemorris.com; spellmand@lanepowell.com; beardr@lanepowell.com; Anderson, Jason; Parker, Tim
Subject: In re Scarborough and Wolf - No. 13-0084

Judge Petersen and Ms. Cairns –

Attached are Edmund Scarborough's Opposition to Request to Issue Subpoena (Amended) and the Amended Declaration of Edmund Scarborough. The originals have been mailed to you.

Christine Williams, Legal Assistant to Timothy J. Parker
206-607-4185 Direct | 206-622-8020 Main

EXHIBIT B

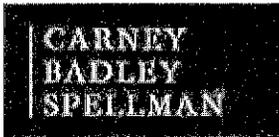
Williams, Christine

From: Anderson, Jason
Sent: Tuesday, November 19, 2013 9:28 AM
To: 'Singer, Alan (OIC)'
Cc: MMMiles@duanemorris.com; Parker, Tim; Williams, Christine
Subject: RE: In re Scarborough and Wolf - No. 13-0084

Alan,

Mr. Scarborough does not recall ever having issued a financial guarantee in any state.

-Jason



Jason W. Anderson, Principal
206-607-4114 Direct | 206-622-8020 Main
[Bio](#) | [vCard](#) | [Address](#) | [Website](#)
anderson@carneylaw.com

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From: Singer, Alan (OIC) [<mailto:AlanS@OIC.WA.GOV>]
Sent: Monday, November 18, 2013 12:20 PM
To: Anderson, Jason
Cc: MMMiles@duanemorris.com; Parker, Tim; Williams, Christine
Subject: RE: In re Scarborough and Wolf - No. 13-0084

Thanks, Jason.

From: Anderson, Jason [<mailto:Anderson@carneylaw.com>]
Sent: Monday, November 18, 2013 12:19 PM
To: Singer, Alan (OIC)
Cc: MMMiles@duanemorris.com; Parker, Tim; Williams, Christine
Subject: RE: In re Scarborough and Wolf - No. 13-0084

Alan,

A disc was delivered to your office on Friday containing the bond documents for the 13 bonds listed in Mr. Miles' letter. The bond documents for the 9 additional bonds were attached to my e-mail to you this morning. You should have all 22, so please let me know if you are missing anything. I believe your second question is answered by Mr. Scarborough's declaration. I will follow up if there is more information to provide in that regard.

-Jason



Jason W. Anderson, Principal
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From: Singer, Alan (OIC) [<mailto:AlanS@OIC.WA.GOV>]
Sent: Monday, November 18, 2013 12:12 PM
To: Anderson, Jason
Cc: MMMiles@duanemorris.com; Parker, Tim; Williams, Christine
Subject: RE: In re Scarborough and Wolf - No. 13-0084

Thanks, Jason. What about the rest of the bonds? Attached are the ones I already have, so no need to produce them again, unless you have pages to them that I'm missing. But what about all the other ones listed in Mike's letter? Are you producing them?

Also, I forget what you said as to Mr. Scarborough's financial guarantee activity in Washington, but to be clear, has he issued any financial guarantees (a) in Washington, (b) that affect people in this state, (c) that affect subjects located wholly or in part in Washington, (d) that affect subjects to be performed in this state, or (e) that involve Washington residents or other Washington licensees?

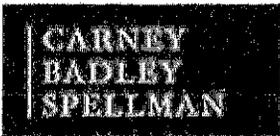
From: Anderson, Jason [<mailto:Anderson@carneylaw.com>]
Sent: Monday, November 18, 2013 8:56 AM
To: Singer, Alan (OIC)
Cc: MMMiles@duanemorris.com; Parker, Tim; Williams, Christine
Subject: RE: In re Scarborough and Wolf - No. 13-0084

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Let me know if you have any questions.

-Jason



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From: Williams, Christine
Sent: Monday, November 18, 2013 8:49 AM
To: kellyc@oic.wa.gov
Cc: 'alans@oic.wa.gov'; 'jmcphee@workwith.com'; MMMiles@duanemorris.com; spellmand@lanepowell.com; beardr@lanepowell.com; Anderson, Jason; Parker, Tim
Subject: In re Scarborough and Wolf - No. 13-0084

Judge Petersen and Ms. Cairns –

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Address | Website
williams@carneylaw.com

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