

2014 SEP 24 A *Mary R. DeYoung*
Writer's Direct Line (206) 332-7414
deyoung@sohalang.com

September 23, 2014

Via Email

AnnaLisa Gellermann
Deputy Insurance Commissioner
Legal Affairs Division
Washington State Office of the Insurance Commissioner
Olympia, WA 98504-0255

Re: Washington USL&H Assigned Risk Plan
Appeal of WIGA Assessment

Dear Ms. Gellermann:

I represent the Washington Insurance Guaranty Association (WIGA). This acknowledges receipt of Mr. Anderson's September 18, 2014 appeal on behalf of the Washington USL&H Assigned Risk Plan (WARP) of an assessment by WIGA to SeaBright Insurance.

Preliminarily, it is WIGA's position that WARP's appeal is untimely. Under RCW 48.32.070(3)(g) and Section 170 of WIGA's Plan of Operation, a member insurer aggrieved by any final action or decision of WIGA has 30 days to appeal to the commissioner. WARP's appeal is dated September 18, 2014. However, the attachment to WARP's appeal, being my June 20, 2014 letter advising of the WIGA board's denial of WARP's reimbursement request, reflects that the letter was received by Mr. Anderson on behalf of WARP on June 30, 2014. WARP's September 18, 2014 letter asserts that "SeaBright assigned to WARP SeaBright's right to contest WARP's portion of the assessment." SeaBright is a member insurer of WIGA. Accordingly, standing in SeaBright's shoes as a WIGA member, WARP must comply with the appeal timeframes set forth in the WIGA Act and Plan of Operation, which it has not. We are prepared to further address the timeliness issue if you or the assigned hearing officer requests. We note it first, and separately, because it appears to clearly foreclose WARP's appeal.

To the extent the appeal proceeds, WIGA does not agree with WARP's assertion that there is no need for an evidentiary hearing and the matter may proceed simply with a declaratory ruling. Although we are prepared to work with WARP's counsel to see if the parties might be able to agree on a stipulated factual statement, if the appeal proceeds, WIGA would likely request targeted written discovery from WARP, including though not necessarily limited to its agreements with Sea Bright Insurance Company and Eagle Pacific Insurance Company, and its correspondence with those insurers regarding WIGA assessments. If the appeal proceeds, WIGA

Attorneys at Law

A Professional Service Corporation
1325 Fourth Avenue, Suite 2000
Seattle, WA 98101-2370
Telephone (206) 624-1800 Fax (206) 624-3585

AnnaLisa Gellermann

September 23, 2014

Page 2

would also likely request a full opportunity to present its position in writing by brief or otherwise, and by argument presented at a formal hearing.

Thank you for your consideration of WIGA's comments. We request that you share them with the hearings office, as mentioned in your September 22, 2014 email.

Sincerely,

SOHA & LANG, P.S.



Mary R. DeYoung

Cc: Paul L. Anderson, WARP counsel
David C. Edwards, Executive Director, WIGA
Lorraine Segedie, Controller, WIGA
William Clumpner, board chairman, WIGA