

FILED

2013 NOV 27 P 5:23

In re the Matter of:) Docket No. 13-0084 Hearing Room: DIC
) Patricia D. Peterson
) Chief Hearing Officer
EDMUND C. SCARBOROUGH and) **OFFICE OF THE INSURANCE**
WALTER W. WOLF,) **COMMISSIONER'S**
) **MOTION TO COMPEL**
Respondents.)

I. RELIEF REQUESTED

The Washington State Office of the Insurance Commissioner ("OIC") seeks (1) an order compelling Respondent Edmund C. Scarborough ("Respondent") to produce by a date certain full, complete, executed and attested answers and responses to OIC's Interrogatories and Requests for Production, with discovery objections deemed waived, (2) a prehearing conference on this motion and to assess the propriety of Respondent's objections to OIC's discovery, and (3) an order granting a continuance of the hearing commensurate with the delay caused by Respondent's inappropriate discovery response.

II. FACTS ¹

On September 27, 2013, OIC propounded Interrogatories and Requests for Production to Respondent ("OIC's discovery"). *See* Decl. Singer Exh. A.

On October 28, 2013, Respondent provided an unexecuted and unattested document ("Respondent's discovery response") which in name only purports to provide "answers" and "responses" to OIC's discovery. *See* Decl. Singer Exh. B.

On November 1, 2013, OIC staff provided Respondent with a letter setting forth a written explanation of the nature of the facts, matters and issues for hearing in an attempt to re-focus Respondent as to why all of the discovery was appropriate, and to arrange a CR 26(i) conference. ² *See*

¹ The facts set forth derive from the Declaration of Alan Michael Singer filed herewith.

² Washington Superior Court rule (CR) 26(i) provides:

Decl. Singer Exh. C. After attempts to reach Respondent's counsel, a CR 26(i) conference was eventually scheduled for and held on November 13, 2013, meeting the requirements of CR 26(i).

The very next day, in Respondent's 'opposition to request to issue subpoena duces tecum to Wells Fargo Bank N.W., N.A.,' Respondent claims that "[t]he OIC agreed that certain discovery requests would be withdrawn or narrowed based on (1) representations by Scarborough regarding the limited number of bonds issued in Washington and the status of those bonds and (2) supplemental production of bonds." *See* Decl. Singer Exh. D. This claim is not correct and it mischaracterizes what discussions did take place at the CR 26(i) conference.³ No such specific agreements were reached as to the OIC's discovery, as evidenced by the lack of any written agreement between the parties. In the CR 26(i) conference, after OIC staff mentioned that Respondent's discovery response was almost completely nonresponsive and started going through them, Respondent's counsel simply refused to address any of them. At the conclusion of the call, OIC staff made clear to Respondent's counsel that this very motion to compel would need to follow later. Respondent's counsel said he understood it would.

Respondent has not supplemented his discovery response. Although his 'opposition to request to issue subpoena duces tecum to Wells Fargo Bank N.W., N.A.' complains that OIC's discovery is supposedly "overly broad and unduly burdensome and seek[s] information and documents not relevant to the complained issues" – without providing a copy of OIC staff's November 1, 2013 letter, his own November 14, 2013 discovery to OIC is no less broad or burdensome. *See* Decl. Singer Exh. E.

Motions; Conference of Counsel Required. The court will not entertain any motion or objection with respect to rules 26 through 37 unless counsel have conferred with respect to the motion or objection. Counsel for the moving or objecting party shall arrange for a mutually convenient conference in person or by telephone. If the court finds that counsel for any party, upon whom a motion or objection in respect to matters covered by such rules has been served, has willfully refused or failed to confer in good faith, the court may apply the sanctions provided under rule 37(b). Any motion seeking an order to compel discovery or obtain protection shall include counsels [sic] certification that the conference requirements of this rule have been met.

³ This motion does not concede or address the accuracy of any other representations made in Respondent's various oppositions regarding the Wells Fargo subpoena.

III. ARGUMENT AND AUTHORITY

Rule 26 (b) (1) of the Washington Civil Rules provides as follows:

(1) **In General.** Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

OIC's interrogatories and requests for production were tailored carefully to the unique facts and issues in this matter. Mr. Scarborough portrays himself as an exception to insurance laws, somehow authorized to use supposed mountains of incredibly valuable coal located somewhere in the hills of West Virginia and Kentucky, even invoking the good name of the nationally recognized bank Wells Fargo with "irrevocable trust receipts," to act as a surety insurer issuing bonds for thousands of complex state and federal projects nationwide. The problem, of course, with these dubious bonds is not merely that this activity violates Washington and likely all other state insurance laws, it places at risk all parties to projects involving these bonds. Respondent's singular business activity raises a large number of legitimate questions, such as questions about his true assets, his supposed coal sales to pay claims, the value of his supposed coal, and his claims practices as an unauthorized insurer, among other things. While all such things are topics in OIC's discovery, Respondent only met them with rafts of dilatory, boilerplate objections and utterly nonresponsive "answers" and "responses." As noted by Senior United States District Judge J. William Ditter, Jr., "It is not good faith for a lawyer to frustrate discovery requests ... with successive objections like a magician pulling another and another and then still another rabbit out of a hat." *Massachusetts School of Law at Andover, Inc. v. American Bar Association*, 914 F.Supp. 1172, 1177 (E.D.Pa. 1996).

In fact, Washington courts have noted that objections such as "[o]verly broad, privileged,

ambiguous and irrelevant,” with nothing more, may even lead to sanctions. *Johnson v. Jones*, 91 Wn. App. 127, 134, 955 P.2d 826 (1998) (upholding the imposition of discovery sanctions for such objections). Without indicating “how” requested materials are “overly broad,” “how they are privileged, nor how the question is ambiguous,” such objections do “not satisfy the specificity requirements of the discovery rules.” *Id.* Such objections have been characterized as “boilerplate objection[s].” *Id.* Objections like “[o]verly broad, ambiguous, irrelevant, not calculated to lead to discoverable evidence, and more properly requested on supplemental examination,” without any explanation, “do not satisfy the requirements of the discovery rules.” *Id.*

“The rules are clear that a party must fully answer all interrogatories and all requests for production, unless a specific and clear objection is made.” *Johnson* at 132, citing *Washington State Physicians Ins. Exch. Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 353-54, 858 P.2d 1054 (1993) and CR 33(a) (“Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer”) and CR 34(b) (“The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated.”)); *see also* CR 37(a)(3), (d) (evasive or misleading answers are treated as failures to answer).

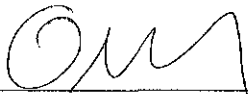
Respondent’s remedy, if any, is not to obstruct the discovery process. “If a party disagrees with the scope of production, or wishes not to respond, it must move for a protective order and cannot withhold discoverable materials.” *Johnson* at 132, citing *Fisons* at 354.

Here, a thoughtful review of each of OIC’s discovery requests shows that the information sought falls squarely within the broad scope of discovery permitted by CR 26, 33, and 34 as it “appears reasonably calculated to lead to the discovery of admissible evidence.” CR 26(b)(1). Respondent’s endless objections and non-responses, on the other hand, appear plainly inappropriate and unsatisfactory, at best. Such inappropriate objections should be deemed waived.

Finally, while Respondent's singular product offering and business activity is complex and requires discovery as to many facts, the delay now caused by Respondent's obstruction caused OIC staff at least two months of delay. Accordingly, pursuant to WAC 10-08-090, good cause exists for a commensurate continuance to ensure there is adequate time to adequately plan and prepare for hearing.

Accordingly, OIC submits that Respondent should be ordered to submit full, complete, executed and attested answers and responses to OIC's discovery, that Respondent should provide all requested answers, responses, and responsive documents by a date certain, and that any further objections to OIC's discovery be deemed waived. OIC requests a prehearing conference to review OIC's discovery and Respondent's answers, responses and objections. In addition, OIC staff requests a continuance commensurate with the delay Respondent caused, measuring the amount of time for the continuance from the date when the Respondent eventually produces full, complete, executed and attested answers and responses to OIC's discovery, with all responsive documents.

Respectfully submitted this 27th day of November, 2013.



Alan Michael Singer
OIC Staff Attorney

FILED

2013 NOV 27 P 5:23

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

In re the Matter of:) Docket No. 13-0084
)
EDMUND C. SCARBOROUGH and) **DECLARATION OF**
WALTER W. WOLF,) **ALAN MICHAEL SINGER**
)
Respondents.)

I, Alan Michael Singer, state and declare as follows:

1. My name is Alan Michael Singer. I make this Declaration on the basis of first hand personal knowledge. I am over the age of eighteen (18) years. I am competent and authorized to testify to the matters set forth herein.
2. I am employed by the Washington State Office of the Insurance Commissioner (OIC). My title is Staff Attorney within the Legal Affairs Division.
3. On September 27, 2013, OIC propounded the attached Interrogatories and Requests for Production to Respondent ("OIC's discovery"). A true and correct copy of OIC's discovery is attached hereto and incorporated herein as **Exhibit A**.
4. An October 28, 2013, Respondent provided the attached, unexecuted and unattested document ("Respondent's discovery response") which in name only purports to provide "answers" and "responses" to OIC's discovery. A true and correct copy of Respondent's discovery response is attached hereto and incorporated herein as **Exhibit B**.
5. On November 1, 2013, I provided Respondent with a letter setting forth a written explanation of the nature of the facts, matters and issues for hearing in an attempt to re-focus Respondent as to why all of the discovery was appropriate, and to arrange a CR 26(i) conference. A true and correct copy of this letter is attached hereto and incorporated herein

as **Exhibit C**. After attempts to reach Respondent's counsel, a CR 26(i) conference was eventually scheduled for and held on November 13, 2013, meeting the requirements of CR 26(i).

6. Attached hereto and incorporated herein as **Exhibit D** is a true and correct copy of Respondent's November 14, 2013 'opposition to request to issue subpoena duces tecum to Wells Fargo Bank N.W., N.A.' In it, Respondent claims that "[t]he OIC agreed that certain discovery requests would be withdrawn or narrowed based on (1) representations by Scarborough regarding the limited number of bonds issued in Washington and the status of those bonds and (2) supplemental production of bonds." This claim is not correct and it mischaracterizes what discussions did take place at the CR 26(i) conference. No such specific agreements were reached as to the OIC's discovery, as evidenced by the lack of any written agreement between the parties. In the CR 26(i) conference, after I mentioned that Respondent's discovery response was almost completely nonresponsive and started going through them, Respondent's counsel simply refused to address any of them. At the conclusion of the call, I made clear to Respondent's counsel that this very motion to compel would need to follow later. Respondent's counsel said he understood it would.

7. Respondent has not supplemented his discovery response. Although his original and his amended 'opposition to request to issue subpoena duces tecum to Wells Fargo Bank N.W., N.A.' each complain that OIC's discovery is supposedly "overly broad and unduly burdensome and seek[s] information and documents not relevant to the complained issues" – without providing a copy of OIC staff's November 1, 2013 letter, his own November 14, 2013 discovery to OIC is no less broad or burdensome. A true and correct copy of Respondent's discovery to OIC is attached hereto and incorporated herein as **Exhibit E**.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 27th day of November, 2013 at Tumwater, Washington.



Alan Michael Singer

November 27, 2013 declaration of Alan Michael Singer

Exhibit A

BEFORE THE STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In re the Matter of:

**EDMUND C. SCARBOROUGH and
WALTER W. WOLF,**

Respondents.

) Docket No. 13-0084
)

) **FIRST INTERROGATORIES AND
) REQUESTS FOR PRODUCTION TO
) EDMUND C. SCARBOROUGH**
)

TO: Edmund C. Scarborough
944 Glenwood State, Suite 104
Charlottesville, VA 22901

Edmund C. Scarborough
700 Overlook Drive
Winter Haven, FL 33884

Edmund C. Scarborough
1155 15th Street, NW #900
Washington, D.C. 20005

Edmund C. Scarborough
6352 Cypress Gardens Blvd.
Winter Haven, FL 33884

c/o Timothy J. Parker (original)
Carney Badley Spellman
701 Fifth Ave. #3600
Seattle, WA 98104
Parker@CarneyLaw.com

c/o Michael M. Miles (copy)
Ballard Spahr
100 North City Parkway, #1750
Las Vegas, NV 89106
milesm@ballardspahr.com

Definitions and Procedures

A. Procedures: These Interrogatories and Requests for Production are propounded pursuant to the Washington Civil Rules for Superior Court. Please complete the answers within the space provided. If needed, add additional pages. Within the time the Washington Civil Rules for Superior Court permit, please return to the office of the undersigned attorney signed, notarized answers and responses, together with one copy of all responsive documents.

B. Scope of Answers: The pronouns "you" and "your" refer to Respondent Edmund C. Scarborough. It is intended that your answers are to include all information known to you and your agents, including but not limited to your attorneys, accountants, investigators, appraisers, employees, and all affiliated bonding, financial guarantee, and surety entities you substantially own, supervise, or control, such as International Insurance & Bonding, Inc., International Construction Services, Corp., International Bonding & Construction Services, Inc., IBCS, Inc., I.B.C.S., Inc., The IBCS Group, Inc., The Scarborough Bond & Guarantee Program, IBCS Fidelity, Inc., IBCS Fidelity and Insurance, LLC, TBG Fidelity & Insurance, LLC (including TBG Fidelity and Insurance, LLC), IBCS Mining, Inc., IBCS Mining Kentucky Division, Inc., IBCS Mining West Virginia Division, Inc., and their other principals, shareholders, officers, directors, and owners.

C. *Document*: As used herein, the word “document” shall mean the original and any copy, regardless of origin or location, of any book, pamphlet, periodical, letter, memorandum, telegram, report, record, study, handwritten note, map, drawing, working paper, chart, paper, graph, index, tape, data sheet or data processing card, or any other written, recorded transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, to which you have or have had access. Requests for “true and correct” copies of documents seek accurate and complete copies.

D. *Continuing in Nature – Sanctions for Failure to Furnish Full and Complete Answers and Responses*: The interrogatories and requests for production that follow herein shall be deemed to be continuing. This means that, in the event that you discover additional information that is responsive to any of these interrogatories and requests for production after you have provided your answers and responses, upon receipt or discovery of that information, you are to promptly provide the undersigned with such information and promptly provide the undersigned with amended answers and responses to these interrogatories and requests for production reflecting such information. If you receive or discover additional responsive information between the time of making these answers and responses and the time of hearing, these interrogatories and requests for production are directed to that information as well. If such information is not furnished, the undersigned reserves the right to move for and request appropriate sanctions, including but not limited to a default judgment, exclusion of some or all of respondents’ evidence or defenses, and any other appropriate sanctions and remedies.

E. *Numbers*: Please ensure that all answers to interrogatories and responses to requests for production are numbered consecutively, and that all answers and responses specifically identify any particular responsive documents to which they refer.

F. *Identify or Identity*:

1. *Person*: As used herein, “identify” or “identity” used in reference to an individual person means to state his or her full name, present or last known address, telephone number, and e-mail address, and present or last known avocation, position of employment, and business affiliation. If the person’s present identity is not known, please so state and provide the person’s last known information recited herein and specify the date this information was last known. For a definition of “person,” see RCW 48.01.070.

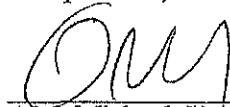
2. *Document*: “Identify” or “identity” when used in reference to a document means to state the document’s date or date of creation, author, type of document (e.g., identifying it), and its present location or custodian. If any such document was, but is no longer in your possession or subject to your control, state what disposition was made of it.

3. *Account*: "Identify" or "identity" when used in reference to an account means to state the name, address and telephone number of the institution, person, or other entity holding, associated with, or creating the account, the type of account, the date of the account's creation, the identity of the person or persons authorized to access, use, or control funds in the account, and the account's location or custodian. If any such account was, but is no longer in existence, state what disposition was made of it.

G. *Assertion of privilege or other refusal to answer or respond – log*: To the extent that on the basis of any asserted claim (such as purported attorney-client privilege) any answer is not given, or any responsive document or other information is not fully produced, please accompany your answers and responses with a log. In your log, please identify with enough specificity to enable an *in-camera* review the withheld answer, document, or other information, and a description of the claim and the legal basis for asserting it. For example, if an e-mail is withheld, at minimum, include in your log the Bates stamp number of the document, the date the communication occurred, the identity of all parties to the communication or who received a copy of the communication, the purpose of the communication, and the legal basis for withholding it.

H. *CR 26(g) certification*. You and your attorneys' signatures on your answers and responses to these interrogatories and requests for production are certifications made pursuant to CR 26(g). Any and all objections, claims, assertions of privilege or other claims made for failing to produce any responsive information that you or your attorneys make are also made pursuant to CR 26(g). If a certification is made in violation of the rule, the Chief Hearing Officer may be asked to impose upon the person who made the certification, the party on whose behalf the request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney fee.

DATED this 27th day of September, 2013.



Alan Michael Singer, WSBA No. 31302
Staff Attorney, Legal Affairs Division
Office of the Insurance Commissioner

FIRST INTERROGATORIES

INTERROGATORY NO. 1. For each of the 13 below-listed entities in subpart (a) through (m) of this interrogatory, please explain their roles and how each functions or functioned relative to your bond business and bond selling activities. As part of your answer, please indicate state of

incorporation (if applicable) and please also identify each of the following's principals, officers, directors, owners, shareholders, and employees:

- (a) International Insurance & Bonding, Inc.
- (b) International Construction Services, Corp.
- (c) International Bonding & Construction Services, Inc.
- (d) IBCS, Inc.
- (e) I.B.C.S., Inc.
- (f) The IBCS Group, Inc.
- (g) The Scarborough Bond & Guarantee Program
- (h) IBCS Fidelity, Inc.
- (i) IBCS Fidelity and Insurance, LLC
- (j) TBG Fidelity & Insurance, LLC (including TBG Fidelity and Insurance, LLC)
- (k) IBCS Mining, Inc.
- (l) IBCS Mining Kentucky Division, Inc.
- (m) IBCS Mining West Virginia Division, Inc.

ANSWER:

INTERROGATORY NO. 2. Identify all domains and websites that (a) you have registered, directly or indirectly, (b) you have commissioned or requested someone else to register, and/or (c) were registered by any of the principals, officers, directors, owners, shareholders, and employees of any of the entities listed in interrogatory number one above, subparts (a) through (m).

ANSWER:

INTERROGATORY NO. 3. Describe how you market your bonds and financial guarantees. Include in your answer (a) examples of marketing methods used, (b) identify all persons who conduct marketing efforts to sell your bonds and financial guarantees, (c) an explanation of how people are targeted or identified for marketing your bonds and financial guarantees, (d) a description of methods by which marketing of your bonds and financial guarantees occurs and has occurred, and (e) how you came to meet agents like Mr. Wolf with whom you sell and market your bonds and financial guarantees.

ANSWER:

INTERROGATORY NO. 4. Since you purport to be an "individual surety," please identify and explain your reasons for also requiring Mr. Wolf to be a co-individual surety.

ANSWER:

INTERROGATORY NO. 5. Please identify all professional licenses (including any insurance licenses) and each certificate of authority held by you and by:

- (a) any of the foregoing entities listed in the above interrogatory number one, parts (a) through (m) (including licenses and certificates of authority held by each's principals, officers, directors, owners, shareholders, and employees), and by
- (b) any person who markets or marketed your bonds and financial guarantees, and by
- (c) any person who has signed or co-signed as an "individual surety" on any bonds or financial guarantees you have written, and by
- (d) each affiliated or related entity, entities, person, or persons identified in your answer to interrogatory number one, parts (a) through (m) or their principals, officers, directors, owners, shareholders, and employees.

If you or any person responsive to any part of this interrogatory ever applied for any professional licenses but were denied, please identify and disclose those.

ANSWER:

INTERROGATORY NO. 6. Please identify and explain what the U.S. Individual Surety Association is and what it does, identify its principals, officers, directors, owners, shareholders, members and employees, identify its date of incorporation or organization, and identify its state of domicile.

ANSWER:

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, any other sources of income, and disclose any State or Federal tax liens and bankruptcies.

ANSWER:

INTERROGATORY NO. 8. As to your financial guarantees, please explain what your financial guarantees are and what they are used for, please identify the parties involved in these financial guarantees, and please identify the documents used in your financial guarantees.

ANSWER:

INTERROGATORY NO. 9. Please describe your experience, work, and relationship, past and present, with "Underwriters Reinsurance," Underwriters Group, and First Mountain Bancorp. Include as part of your answer the nature and extent of the relationship, Underwriters Reinsurance's, First Mountain Bancorp's and Underwriters Group's principals, officers, directors, owners, shareholders, and employees, and the identity of any other purported reinsurers and underwriters you work with or contract with in connection with your bond and financial guarantee activities.

ANSWER:

INTERROGATORY NO. 10. Please describe your claims analysis experience for surety companies and lawfirms. Include in your answer examples of the specific claims analysis activities you engaged in, and the identity of the surety companies and lawfirms for or through which you've performed or gained such claims analysis experience.

ANSWER:

INTERROGATORY NO. 11. Please provide the details of your educational and criminal history. As to educational history, include names, addresses, and dates of all schools you have attended, and whether diplomas, general educational equivalents or GEDs, or degrees were earned. As to criminal history, please identify each and every criminal charge, whether any conviction resulted, whether any pardon resulted, and the location and any sentencing outcome.

ANSWER:

INTERROGATORY NO. 12. Please disclose and identify all complaints made about you to any state or federal agency or regulatory body, specifically including any insurance or financial products regulator.

ANSWER:

INTERROGATORY NO. 13. Please identify (including the court, docket or case number, and the names of opposing parties' counsel) each and every state lawsuit and each and every federal lawsuit filed against you, or filed against any entity listed in the above interrogatory number one, parts (a) through (m), regarding or involving any bond or financial guarantee you issued, your bonding and financial guarantee business, or your bond or financial guarantee issuing activities. As part of your answer, please indicate the outcome, and please also indicate whether any such lawsuits regard, regarded, concern or concerned any allegations of or sounding in fraud, unfair practices, or a failure to promptly pay on claims against bonds.

ANSWER:

INTERROGATORY NO. 14. For every bond claim you have paid in full, please indicate how long it took to pay the claim after the initial claim or default notice was made.

ANSWER:

INTERROGATORY NO. 15. Please identify and list each and every state administrative action and each and every federal administrative action ever commenced against you, or commenced against any entity listed in the above interrogatory number one, parts (a) through (m). (By way of example, the actions taken against you in Virginia, Idaho, and Iowa are examples of "administrative action.") Please specifically include any actions taken by any state insurance regulators, formal or informal, and disclose the outcome(s), including any settlement(s), decision(s) to take no action, and consent order(s).

ANSWER:

INTERROGATORY NO. 16. Please disclose and identify every state insurance regulator with whom you have had any contact regarding your bond and financial guarantee issuing activity.

ANSWER:

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.

ANSWER:

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 amounts, and the claim settlement amounts, if any settlement fell short of the full claim amount.

ANSWER:

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.

ANSWER:

INTERROGATORY NO. 20. Please explain in detail what a "finishing expense" is (see, e.g., item 5 of your bond's "Dedicated Asset Calculation") and set forth the factual basis upon which it is derived and calculated. Include in your answer the identity of all persons who determine this "finishing expense" for each of your bonds and financial guarantees and all data upon which it is based.

ANSWER:

INTERROGATORY NO. 21. Please explain in detail what "processing costs" are (see, e.g., items 6 and 7 of your bond's "Dedicated Asset Calculation") and set forth the basis upon which these costs are derived and calculated. Include in your answer the identity of all persons who determine these "processing costs" for each of your bonds and financial guarantees and all data upon which they are based.

ANSWER:

INTERROGATORY NO. 22. Please explain in detail how the coal mentioned in your bonds and financial guarantees is processed and needs to be processed before it can be sold at or for the spot price referenced in your bonds and financial guarantees. Include in your answer (a) the identity of all persons who perform this processing or any part of the steps involved in this processing (including, but not limited to, miners, persons performing comminution, desliming, sizing, concentration, and dewatering, coal preparation/processing plant owners, plant staff, equipment operators, and transporters), (b) the location where processing occurs, (c) the identity of the owner of all processing equipment used to process the coal mentioned in your bonds, (d) a list of all permits and licenses required to mine, process, and sell coal identified in response to interrogatory number seventeen, and indicate whether you have these permits, and (e) an itemization of all costs associated with the processing of coal mentioned in your bonds, including costs for permitting and for the transport and disposal of all waste materials from the processing.

ANSWER:

INTERROGATORY NO. 23. Explain in detail how a buyer is found for the coal referenced in your bonds and financial guarantees each time a coal sale is made or needs to be made.

ANSWER:

INTERROGATORY NO. 24. For each coal sale made to satisfy a bond or financial guarantee claim, please indicate whether the sale was for "spot price" and how long it took to convert the coal to cash from the time of the bond or financial guarantee claim to the time of the actual coal sale. As part of your answer, please also indicate the state of the coal sold – for example, whether you sold coal processed to the quality needed to have the value of the asserted "spot price," or whether you instead sold the coal "as is" in a less than fully processed state or in a less than fully useful or fully valuable state. If the sale was not for "spot price," please indicate the number of dollars per short ton earned from the sale.

ANSWER:

INTERROGATORY NO. 25. Please identify all bonds and all financial guarantees you have ever solicited, sold, or otherwise issued in this state, or affecting subjects located wholly or in part or to be performed within this state, and all persons having to do therewith. Include in your answer (a) the date of bond or financial guarantee issuance, (b) the type of bond(s) and financial guarantee(s) issued, (c) the identity of each surety on the bond or financial guarantee, including the identity of all persons other than yourself that have been named as a second "individual surety" on bonds and financial guarantees you have issued, (d) the identity of each principal and owner on each bond and each financial guarantee, (e) the amount of each bond and each financial guarantee, (f) your fee or premium collected for issuing each bond and each financial guarantee, and (g) whether notices of default, financial guarantee claims, or bond claims were made.

ANSWER:

INTERROGATORY NO. 26. Please identify all persons other than yourself that have been named as a second "individual surety" on all bonds and all financial guarantees you have issued in states beside Washington.

ANSWER:

INTERROGATORY NO. 27. Please indicate how you calculate and determine the fee or amount of premium you charge and collect for each of your bonds and your financial guarantees that you sell, and identify the people who keep or receive any portion of that money. If this money is reserved in any way to satisfy claims, please explain how this occurs and identify all accounts used for this purpose.

ANSWER:

INTERROGATORY NO. 28. Please identify all "Irrevocable Trust Receipts," "indentured trust agreements," "trust indenture agreements," and "trust agreements" related to bonds and financial guarantees that were issued in this state, or that affect subjects located wholly or in part or to be performed within this state, or any persons having to do therewith.

ANSWER:

INTERROGATORY NO. 29. Please identify all persons who have, since 2003, issued "Irrevocable Trust Receipts" relating to your bonds and your financial guarantees.

ANSWER:

INTERROGATORY NO. 30. Please indicate the claims payout rate on all bonds and financial guarantees you have issued. As part of your answer, please identify the total number of bonds and the total number of financial guarantees written, including the total number of new bonds and the total number of new financial guarantees written each month since 2003, and the total number of claims paid in full for the amount demanded.

ANSWER:

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 had 10 (ten) in-force bonds or financial guarantees worth an aggregate value of \$1 million dollars.)

ANSWER:

INTERROGATORY NO. 32. For all claims paid under bonds you have issued, please identify the source of the funds and accounts used to pay the claims.

ANSWER:

INTERROGATORY NO. 33. Please describe and explain the meaning of "funds control" as referenced with regard to your bonds. As part of your answer, describe what you and other persons do to accomplish "funds control."

ANSWER:

INTERROGATORY NO. 34. Please describe the services you provide upon issuance of bonds and financial guarantees.

ANSWER:

INTERROGATORY NO. 35. Please describe in detail your experience, work, and relationship, past and present, with Larry J. Wright and Robert Joe Hanson. Include in your description any bond or financial guarantee issuing or selling activity, past and present.

ANSWER:

INTERROGATORY NO. 36. Please identify and explain the underwriting standards that need to be met before you issue a bond or financial guarantee.

ANSWER:

INTERROGATORY NO. 37. Please explain in detail your relationship with Wells Fargo as to your bonds and financial guarantees, including when and how it began, and its current status. Include in your answer the following: (a) a description of how Wells Fargo first came to issue Irrevocable Trust Receipts ("ITRs") for your bonds, (b) an identification of all of your agreements, indentures, and arrangement that set forth the terms of your relationship with Wells Fargo for the latter to issue ITRs (including the number of dollars Wells Fargo receives and from who for each bond you issue), (c) an identification of the services, duties, and acts Wells Fargo is bound to perform and does perform pursuant to your relationship regarding either bonds or financial guarantees, (d) indicate the total number of ITRs Wells Fargo has issued to date relative to bonds you have issued, (e) indicate the total number of ITRs Wells Fargo issued which have not yet expired, and (f) indicate the amount of money Wells Fargo receives for its services, duties, and acts performed pursuant to your relationship.

ANSWER:

INTERROGATORY NO. 38. Have you identified a successor person or entity who will issue ITRs or some functionally similar or identical instrument upon your termination of the relationship with Wells Fargo? Please identify them.

ANSWER:

INTERROGATORY NO. 39. Please explain and describe your tonnage calculation open ITR report, such as what it is and what its purpose is, and identify the persons who prepare and update it.

ANSWER:

INTERROGATORY NO. 40. Do you contend that the Washington State Office of the Insurance Commissioner is incorrect in this matter, or has no right or authority to take any action against you for or relating to any and all of your bonds and financial guarantees transacted, solicited, sold, or otherwise issued in this state, or affecting subjects located wholly or in part or to be performed within this state, and all persons having to do therewith? Unless your answer is an unqualified "no," please set forth all reasons for any answer other than an unqualified "no" and identify all documents supporting your answer.

ANSWER:

INTERROGATORY NO. 41. Please identify each person (other than any expert witnesses) you plan to ask to testify or reserve the right to ask to testify on your behalf in this matter. For each, indicate the subject matter and a brief overview of the matters testimony will or may be provided.

ANSWER:

INTERROGATORY NO. 42. Please fully identify each individual you intend to call as an expert witness in this matter, and for each such witness, please state the individual's area of expertise and expert qualifications.

ANSWER:

INTERROGATORY NO. 43. As to each expert identified in your answer to the foregoing Interrogatory, please summarize the opinion or opinions such expert is expected to express and state the grounds for each such opinion.

ANSWER:

INTERROGATORY NO. 44. Please identify all documents and other physical evidence you reserve the right to offer into evidence in this matter.

ANSWER:

FIRST REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1. Please produce true and correct copies of documents showing a few examples of marketing materials used to try to get people to buy or to get people to sell your bonds or financial guarantees, such as e-mail.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2. Please produce true and correct copies of all documents setting forth any agreements between you and any of the entities identified in the first interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3. Please produce true and correct copies of all documents setting forth agreements between you and the person or any of the entities identified in the ninth interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4. Please produce true and correct copies of all documents setting forth purchase price or purchase terms of properties referenced in the seventeenth interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5. Please produce true and correct copies of all documents providing any opinions, evaluations, analyses, or reasoned assessments referenced in the nineteenth interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6. Please produce true and correct copies of all documents setting forth the data referenced in interrogatory number twenty.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7. Please produce true and correct copies of all documents setting forth the data referenced in interrogatory number twenty-one.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8. Please produce true and correct copies of all documents you assert prove your present ability to promptly sell at spot price the coal you claim to own and claim to be able to sell to pay claims.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9. Please produce true and correct copies of all documents you assert prove your past ability to promptly sell at spot price the coal you claim to own and claim to be able to sell to pay claims, from the time you began issuing bonds and financial guarantees to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10. Please produce true and correct copies of all coal sale agreements for all coal you have sold to satisfy bond or financial guarantee claims.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11. Please produce true and correct copies of all bonds and all financial guarantees you have ever solicited, sold, or otherwise issued in this state, or affecting subjects located wholly or in part or to be performed within this state, and all persons having to do therewith.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12. Please produce true and correct copies of all notices of default, financial guarantee claims, and bond claims you have received.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13. Please produce true and correct copies of all contracts and other agreements you or any of the entities listed in interrogatory number one have with any person named as a second "individual surety" on any bonds and any financial guarantees you have issued.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14. Please produce true and correct copies of all agreements and contracts with all persons who have, since 2003, issued "Irrevocable Trust Receipts" relating to your bonds and your financial guarantees.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15. Please produce true and correct copies of all "Irrevocable Trust Receipts," "indentured trust agreements," "trust indenture agreements," and "trust agreements" related to bonds and financial guarantees that were issued in this state, or that affect subjects located wholly or in part or to be performed within this state, or any persons having to do therewith.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16. Please produce true and correct copies of all documents (such as forms and checklists) setting forth or relating to the underwriting standards that you claim need to be met before you issue a bond or financial guarantee.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17. Please produce true and correct copies of all tonnage calculation open ITR reports from 2003 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18. Please produce true and correct copies of all reports of any expert witnesses you retain the right to call at hearing in this matter, and copies of all documents given to or received from the expert(s).

RESPONSE:

REQUEST FOR PRODUCTION NO. 19. Please produce true and correct copies of bankruptcy petitions filed by you or your wife.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20. Please produce true and correct copies of each résumé and each *curriculum vitae* of each expert witness you retain the right to call at hearing in this matter.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21. Please produce a true and correct copy of your résumé or *curriculum vitae*.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22. Please produce true and correct copies of all licenses and permits to conduct mining, processing, and selling of coal related to your bond and financial guarantee business.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23. Please produce true and correct copies of all documents demonstrating the ownership of the West Virginia and Kentucky coal properties related to your bond and financial guarantee business.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24. Please produce true and correct copies of all documents providing the value or market value of the West Virginia and Kentucky coal properties related to your bond and financial guarantee business.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25. Please produce true and correct copies of all reports and other documents you have ever seen or received asserting, proving, or setting forth the market value of all coal related to your bond and financial guarantee business, from 2003 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26. Please produce true and correct copies of all bond logs from 2003 to the present, including those that set forth the total dollar amount of outstanding bonds and financial guarantees.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27. Please produce true and correct copies of all documents (including but not limited to agreements, contracts, letters, e-mail, and facsimiles) you or your attorneys sent to or received from Wells Fargo setting forth (a) your relationship and/or agreements with Wells Fargo, past present and future, and (b) your and Wells Fargo's expectations for the rules and parameters of the relationship, past present and future.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28. Please produce true and correct copies of all documents responsive to interrogatory number forty and interrogatory number forty-four.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29. Please produce true and correct copies of your and your wife's federal tax returns from 2003 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30. Please produce all other documents identified in any of your answers to the preceding interrogatories that you have not already produced.

RESPONSE:

As to objections, if any:

Dated this _____ day of _____, 2013.

CARNEY BADLEY SPELLMAN, P.S.

By _____
Timothy J. Parker, WSBA No. 8797

STATE OF _____)
COUNTY OF _____) ss.

Edmund C. Scarborough, being first duly sworn, on oath, under penalty of perjury under the laws of the state of Washington, deposes and says: That I have made the foregoing answers to interrogatories and responses to requests for production, know the contents thereof, and believe same to be true and complete.

Edmund C. Scarborough

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2013.

(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of _____

Residing at _____

My Appointment Expires: _____

November 27, 2013 declaration of Alan Michael Singer

Exhibit B

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In re the Matter of

EDMUND C. SCARBOROUGH and
WALTER W. WOLF,

Respondents.

NO. 13-0084

OIC'S FIRST INTERROGATORIES
AND REQUESTS FOR PRODUCTION
TO EDMUND C. SCARBOROUGH
AND ANSWERS AND RESPONSES
THERE TO

Definitions and Procedures

A. Procedures: These Interrogatories and Requests for Production are propounded pursuant to the Washington Civil Rules for Superior Court. Please complete the answers within the space provided. If needed, add additional pages. Within the time the Washington Civil Rules for Superior Court permit, please return to the office of the undersigned attorney signed; notarized answers and responses, together with one copy of all responsive documents.

B. Scope of Answers: The pronouns "you" and "your" refer to Respondent Edmund C. Scarborough. It is intended that your answers are to include all information known to you and your agents, including but not limited to your attorneys, accountants, investigators, appraisers, employees, and all affiliated bonding, financial guarantee, and surety entities you substantially own, supervise, or control, such as International Insurance & Bonding, Inc., International Construction Services, Corp., International Bonding & Construction Services, Inc., IBCS, Inc., I.B.C.S., Inc., The IBCS Group, Inc., The Scarborough Bond & Guarantee Program, IBCS Fidelity, Inc., IBCS Fidelity and Insurance, LLC, TBG Fidelity & Insurance, LLC (including TBG Fidelity and Insurance, LLC), IBCS Mining, Inc., IBCS Mining Kentucky Division, Inc., IBCS Mining West Virginia Division, Inc., and their other principals, shareholders, officers, directors, and owners.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 1

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

C. *Document*: As used herein, the word "document" shall mean the original and any copy, regardless of origin or location, of any book, pamphlet, periodical, letter, memorandum, telegram, report, record, study, handwritten note, map, drawing, working paper, chart, paper, graph, index, tape, data sheet or data processing card, or any other written, recorded transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, to which you have or have had access. Requests for "true and correct" copies of documents seek accurate and complete copies.

D. *Continuing in Nature-Sanctions for Failure to Furnish Full and Complete Answers and Responses*: The interrogatories and requests for production that follow herein shall be deemed to be continuing. This means that, in the event that you discover additional information that is responsive to any of these interrogatories and requests for production after you have provided your answers and responses, upon receipt or discovery of that information, you are to promptly provide the undersigned with such information and promptly provide the undersigned with amended answers and responses to these interrogatories and requests for production reflecting such information. If you receive or discover additional responsive information between the time of making these answers and responses and the time of hearing, these interrogatories and requests for production are directed to that information as well. If such information is not furnished, the undersigned reserves the right to move for and request appropriate sanctions, including but not limited to a default judgment, exclusion of some or all of respondents' evidence or defenses, and any other appropriate sanctions and remedies.

E. *Numbers*: Please ensure that all answers to interrogatories and responses to requests for production are numbered consecutively, and that all answers and responses specifically identify any particular responsive documents to which they refer.

F. *Identify or Identity*:

1. *Person*: As used herein, "identify" or "identity" used in reference to an individual person means to state his or her full name, present or last known address, telephone number, and e-mail address, and present or last known avocation, position of employment, and business affiliation. If the person's present identity is not known, please so state and provide the person's last known information recited herein and specify the date this information was last known. For a definition of "person," see RCW 48.01.070.

2. *Document*: "Identify" or "identity" when used in reference to a document means to state the document's date or date of creation, author, type of document (e.g., identifying it), and its present location or custodian. If any such document was, but is no longer in your possession or subject to your control, state what disposition was made of it.

3. *Account*: "Identify" or "identity" when used in reference to an account means to state the name, address and telephone number of the institution, person, or other entity holding, associated with, or creating the account, the type of account, the date of the

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERETO - 2

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

account's creation, the identity of the person or persons authorized to access, use, or control funds in the account, and the account's location or custodian. If any such account was, but is no longer in existence, state what disposition was made of it.

G. *Assertion of privilege or other refusal to answer or respond – log:* To the extent that on the basis of any asserted claim (such as purported attorney-client privilege) any answer is not given, or any responsive document or other information is not fully produced, please accompany your answers and responses with a log. In your log; please identify with enough specificity to enable an *in-camera* review the withheld answer, document, or other information, and a description of the claim and the legal basis for asserting it. For example, if an e-mail is withheld, at minimum, include in your log the Bates stamp number of the document, the date the communication occurred, the identity of all parties to the communication or who received a copy of the communication, the purpose of the communication, and the legal basis for withholding it.

H. *CR 26(g) certification.* You and your attorneys' signatures on your answers and responses to these interrogatories and requests for production are certifications made pursuant to CR26(g). Any and all objections, claims, assertions of privilege or other claims made for failing to produce any responsive information that you or your attorneys make are also made pursuant to CR26(g). If a certification is made in violation of the rule, the Chief Hearing Officer may be asked to impose upon the person who made the certification, the party on whose behalf the request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney fee.

DATED this 27th day of September, 2013.

s/ Alan Michael Singer

Alan Michael Singer, WSBA No. 31302
Staff Attorney, Legal Affairs Division
Office of the Insurance Commissioner

FIRST INTERROGATORIES

INTERROGATORY NO. 1. For each of the 13 below-listed entities in subpart (a) through (m) of this interrogatory, please explain their roles and how each functions or functioned relative to your bond business and bond selling activities. As part of your answer, please indicate state of incorporation (if applicable) and please also identify each of the following's principals, officers, directors, owners, shareholders, and employees:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO – 3


CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

- (a) International Insurance & Bonding, Inc.
- (b) International Construction Services, Corp.
- (c) International Bonding & Construction Services, Inc.
- (d) IBCS, Inc.
- (e) I.B.C.S., Inc.
- (f) The IBCS Group, Inc.
- (g) The Scarborough Bond & Guarantee Program
- (h) IBCS Fidelity, Inc.
- (i) IBCS Fidelity and Insurance, LLC
- (j) TBG Fidelity & Insurance, LLC (including TBG Fidelity and Insurance, LLC)
- (k) IBCS Mining, Inc.
- (l) IBCS Mining Kentucky Division, Inc.
- (m) IBCS Mining West Virginia Division, Inc.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. Further, the information sought is irrelevant to any of the issues pending in the matter, especially whether the law allows for individual surety bonds in the state. There are voluminous documents and information related to these entities that have nothing to do with this dispute; only a few of which relate to the issue at hand. Notwithstanding that objection, Scarborough offers that as to the City of Clarkston Public Safety Building project, aka "PSB", the only bond issued within the state of Washington where the project has not been closed out and which arguably comes under the authority of OIC, the bond was issued by Edmund Scarborough, Individual Surety and administered by The IBCS Group, Inc., 944 Glenwood Station Lane, Suite 104, Charlottesville, VA 22901.


 Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 2. Identify all domains and websites that (a) you have registered, directly or indirectly, (b) you have commissioned or requested someone else to register, and/or (c) were registered by any of the principals, officers, directors, owners, shareholders, and employees of any of the entities listed in interrogatory number one above, subparts (a) through (m).

ANSWER:


Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. Further, the information sought is irrelevant to any of the

OIC'S FIRST INTERROGATORIES AND
 REQUESTS FOR PRODUCTION TO
 EDMUND C. SCARBOROUGH AND
 ANSWERS AND RESPONSES
 THERETO - 4

CARNEY
 BADLEY
 SPELLMAN

LAW OFFICES
 A PROFESSIONAL SERVICE CORPORATION
 701 Fifth Avenue, Suite 3600
 Seattle, WA 98104-7010
 T (206) 622-8020
 F (206) 467-8215

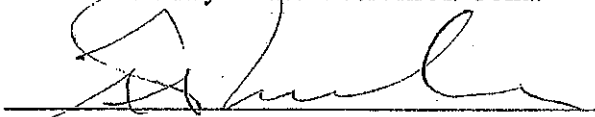
issues pending in the matter, especially whether the law allows for individual surety bonds in the state. There are voluminous documents and information related to these questions, only a few of which relate to the issue at hand. Notwithstanding that objection, Scarborough offers that the website for the IBCS Group, Inc. is www.ibcs.com.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 3. Describe how you market your bonds and financial guarantees. Include in your answer (a) examples of marketing methods used, (b) identify all persons who conduct marketing efforts to sell your bonds and financial guarantees, (c) an explanation of how people are targeted or identified for marketing your bonds and financial guarantees, (d) a description of methods by which marketing of your bonds and financial guarantees occurs and has occurred, and (e) how you came to meet agents like Mr. Wolf with whom you sell and market your bonds and financial guarantees.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. Further, most of the information sought is irrelevant to any of the issues pending in the matter, especially whether the law allows for individual surety bonds in the state. As well, the question seeks trade secret and confidential information that could be produced subject to a protective order but the information would not inform this proceeding. Notwithstanding that objection, Scarborough offers that as to the bond provided for PSB, the local attorney in fact is Steven A. Golia.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 4. Since you purport to be an "individual surety," please identify and explain your reasons for also requiring Mr. Wolf to be a co-individual surety.

ANSWER:

The primary reason for Mr. Wolf's participation as co-individual surety was to provide a local contact for the owner of PSB. It was Scarborough's understanding that PSB's counsel, Mr. Grow, performed what he termed as extensive research on the Scarborough bond program and based on that research he, on behalf of PSB, accepted

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 5

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

the bond as written but demanded that Mr. Wolf be a co-individual surety. Thus, Mr. Wolf agreed to be a co-individual surety.

INTERROGATORY NO. 5. Please identify all professional licenses (including any insurance licenses) and each certificate of authority held by you and by:

- (a) any of the foregoing entities listed in the above interrogatory number one, parts (a) through (m) (including licenses and certificates of authority held by each's principals, officers, directors, owners, shareholders, and employees), and by
- (b) any person who markets or marketed your bonds and financial guarantees, and by
- (c) any person who has signed or co-signed as an "individual surety" on any bonds or financial guarantees you have written, and by
- (d) each affiliated or related entity, entities, person, or persons identified in your answer to interrogatory number one, parts (a) through (m) or their principals, officers, directors, owners, shareholders, and employees.

If you or any person responsive to any part of this interrogatory ever applied for any professional licenses but were denied, please identify and disclose those.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. The information sought is largely irrelevant to any of the issues pending in the matter, especially whether the law allows for individual surety bonds in the state. Notwithstanding that objection, Scarborough offers that his contractor's license is in good standing but inactive. No identified entity has served as an individual surety except Edmund Scarborough.



Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 6. Please identify and explain what the U.S. Individual Surety Association is and what it does, identify its principals, officers, directors, owners, shareholders, members and employees, identify its date of incorporation or organization, and identify its state of domicile.

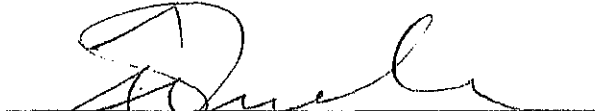
OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 6

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

ANSWER:


Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. Further, the information sought is irrelevant to any of the issues pending in the matter. There are voluminous documents and information related to these questions, probably none of which relate to the issue at hand. The information requested will not be released without an acceptable protective order being in place to assure confidentiality and nonproliferation and payment for the time it takes to produce the information. Notwithstanding that objection, Scarborough offers that information responsive to this question may be found at the website www.usisa.org.


Timothy J. Parker, WSBA # 8797

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, any other sources of income, and disclose any State or Federal tax liens and bankruptcies.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome and inquires into personal financial information without sufficient cause; the information sought is irrelevant to the issues in this matter. There are voluminous documents and information related to personal finances. Notwithstanding that objection, Scarborough offers that as to the bond for PSB, Scarborough provided a dedicated asset valued at \$829,997.40 and showed that his net worth was not less than the penalty of the bond. Scarborough's showing was investigated by PSB's counsel and found after his research to be acceptable to PSB. See Attachment A.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 8. As to your financial guarantees, please explain what your financial guarantees are and what they are used for, please identify the parties involved in

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 7

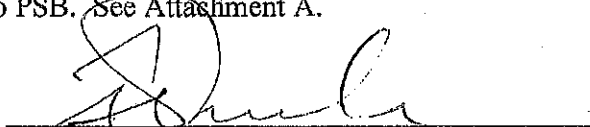
CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

these financial guarantees, and please identify the documents used in your financial guarantees.

ANSWER:

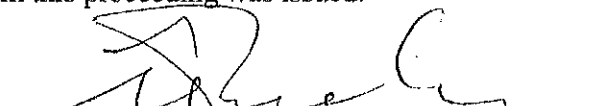
Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. It is also objectionable in that it requests privileged work product material and otherwise privileged information. Further, the information sought is irrelevant to any of the issues pending in the matter. As well, the question seeks personal financial, trade secret and confidential information. The information requested will not be released without a protective order being in place to assure confidentiality and nonproliferation and payment for the time it takes to produce the information. Notwithstanding that objection, Scarborough offers that as to the bond for PSB, Scarborough provided a dedicated asset calculated to be valued at \$829,997.40 and showed that his net worth was not less than the penalty of the bond. Scarborough's showing was investigated by PSB's counsel and found after his extensive research to be acceptable to PSB. See Attachment A.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 9. Please describe your experience, work, and relationship, past and present, with "Underwriters Reinsurance," Underwriters Group, and First Mountain Bancorp. Include as part of your answer the nature and extent of the relationship, Underwriters Reinsurance's, First Mountain Bancorp's and Underwriters Group's principals, officers, directors, owners, shareholders, and employees, and the identity of any other purported reinsurers and underwriters you work with or contract with in connection with your bond and financial guarantee activities.

ANSWER:

Objection: These entities were involved in reinsurance and underwriting from 2004-2007 - well before the bond at issue in this proceeding was issued.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 10. Please describe your claims analysis experience for surety companies and lawfirms. Include in your answer examples of the specific claims analysis

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 8

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

activities you engaged in, and the identity of the surety companies and lawfirms for or through which you've performed or gained such claims analysis experience.

ANSWER:

Edmund Scarborough has performed analysis of surety obligations on numerous jobs identifying performance requirements for satisfactory job resolution and claims resolutions.

INTERROGATORY NO. 11. Please provide the details of your educational and criminal history. As to educational history, include names, addresses, and dates of all schools you have attended, and whether diplomas, general educational equivalents or GEDs, or degrees were earned. As to criminal history, please identify each and every criminal charge, whether any conviction resulted, whether any pardon resulted, and the location and any sentencing outcome.

ANSWER:

High school graduate. No convictions within the scope of ER 609.

INTERROGATORY NO. 12. Please disclose and identify all complaints made about you to any state or federal agency or regulatory body, specifically including any insurance or financial products regulator.

ANSWER:

Resolved a disputed complaint in Virginia by paying a \$20,000 fine. Complaints in Idaho and Washington are pending, although there has been no default in bond obligations. Iowa was resolved by payment of \$5,000.

INTERROGATORY NO. 13. Please identify (including the court, docket or case number, and the names of opposing parties' counsel) each and every state lawsuit and each and every federal lawsuit filed against you, or filed against any entity listed in the above interrogatory number one, parts (a) through (m), regarding or involving any bond or financial guarantee you issued, your bonding and financial guarantee business, or your bond or financial guarantee issuing activities. As part of your answer, please indicate the outcome, and please also indicate whether any such lawsuits regard, regarded, concern or concerned any allegations of or sounding in fraud, unfair practices, or a failure to promptly pay on claims against bonds.

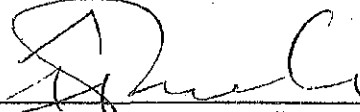
OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 9

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. It is also objectionable in that it requests privileged information. Further, the information sought is irrelevant to any of the issues pending in the matter. Lien claims and construction claims include the surety as a party notwithstanding the absence of liability or default by the surety. Respondents have probably been named in literally thousands of lawsuits – just as all bond issuers are.




Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 14. For every bond claim you have paid in full, please indicate how long it took to pay the claim after the initial claim or default notice was made.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. See answer to Interrogatory No. 13. Further, the information sought is irrelevant to any of the issues pending in the matter. Notwithstanding that objection, Scarborough offers that every bond claim which has been found to have merit has been paid as provided in the bond documents.



Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 15. Please identify and list each and every state administrative action and each and every federal administrative action ever commenced against you, or commenced against any entity listed in the above interrogatory number one, parts (a) through (m). (By way of example, the actions taken against you in Virginia, Idaho, and Iowa are examples of "administrative action.") Please specifically include any actions taken by any state insurance regulators, formal or informal, and disclose the outcome(s), including any settlement(s), decision(s) to take no action, and consent order(s).

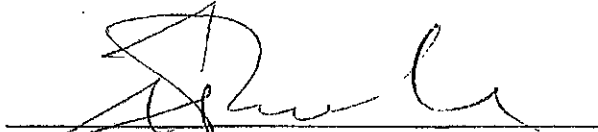
ANSWER:

Objection: The OIC has this information or has ready access to it through the NAIC or otherwise.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERETO – 10

CARNEY
BADLEY
SPELLMAN

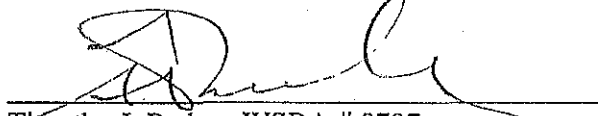
LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 16. Please disclose and identify every state insurance regulator with whom you have had any contact regarding your bond and financial guarantee issuing activity.

ANSWER:

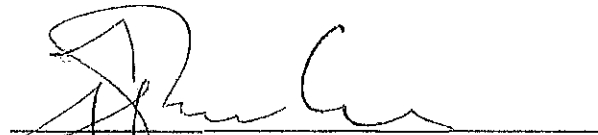
Objection: Scarborough has probably had contact with the majority of states at one time or another and therefore objects to this interrogatory question in that it is overly broad and unduly burdensome. Further, the information sought is irrelevant to any of the issues pending in the matter. There are voluminous documents and information related to these questions, few, if any, of which relate to the issue at hand.


Timothy J. Parker, WSBA # 8797

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.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. Relevant assets are described in the bond documents. See, e.g., Attachment A.


Timothy J. Parker, WSBA # 8797

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 11

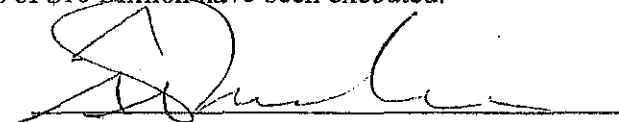
CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

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 amounts, and the claim settlement amounts, if any settlement fell short of the full claim amount.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome, especially in going back ten years. In the last two years, coal sale contracts valued in excess of \$10 Million have been executed.



Timothy J. Parker, WSBA # 8797

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.

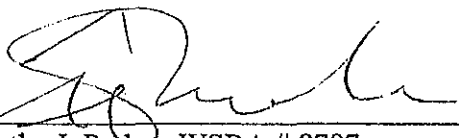
ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome but will provide relevant financial and asset information subject to a protective order. Notwithstanding that objection, Scarborough offers that the website for the IBCS Group, Inc., www.ibcs.com, includes substantial amounts of relevant information. See also Attachment A.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 12

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215



Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 20. Please explain in detail what a "finishing expense" is (see, e.g., item 5 of your bond's "Dedicated Asset Calculation") and set forth the factual basis upon which it is derived and calculated. Include in your answer the identity of all persons who determine this "finishing expense" for each of your bonds and financial guarantees and all data upon which it is based.

ANSWER:

An example of a finishing expense is when the coal must be washed to get it to meet the quality requirements of a certain specification. Finishing is sometimes required, but not always.

INTERROGATORY NO. 21. Please explain in detail what "processing costs" are (see, e.g., items 6 and 7 of your bond's "Dedicated Asset Calculation") and set forth the basis upon which these costs are derived and calculated. Include in your answer the identity of all persons who determine these "processing costs" for each of your bonds and financial guarantees and all data upon which they are based.

ANSWER:

This depends on the needs of each particular buyer. Some buyers require a higher btu content than other buyers. Sometimes there is no processing required because the coal in its present state meets the btu requirement, sometimes washing or blending with a higher btu material is required to meet the buyer's need.

INTERROGATORY NO. 22. Please explain in detail how the coal mentioned in your bonds and financial guarantees is processed and needs to be processed before it can be sold at or for the spot price referenced in your bonds and financial guarantees. Include in your answer (a) the identity of all persons who perform this processing or any part of the steps involved in this processing (including, but not limited to, miners, persons performing comminution, desliming, sizing, concentration, and dewatering, coal preparation/processing plant owners, plant staff, equipment operators, and transporters), (b) the location where processing occurs, (c) the identity of the owner of all processing equipment used to process the coal mentioned in your bonds, (d) a list of all permits and licenses required to mine, process, and sell coal identified in response to interrogatory number seventeen, and indicate whether you have these permits, and (e) an itemization of all costs associated with the processing of coal mentioned

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 13

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

in your bonds, including costs for permitting and for the transport and disposal of all waste materials from the processing.

ANSWER:

The coal does not need to be processed before it can be sold. It can be sold as is. Sometimes it is also screened, or washed, or blended but that it due to particular buyer needs and is not a requirement for sale.

INTERROGATORY NO. 23. Explain in detail how a buyer is found for the coal referenced in your bonds and financial guarantees each time a coal sale is made or needs to be made.

ANSWER:

The Trustee is obligated to find a buyer and to sell the coal. See Attachment A.

INTERROGATORY NO. 24. For each coal sale made to satisfy a bond or financial guarantee claim, please indicate whether the sale was for "spot price" and how long it took to convert the coal to cash from the time of the bond or financial guarantee claim to the time of the actual coal sale. As part of your answer, please also indicate the state of the coal sold - for example, whether you sold coal processed to the quality needed to have the value of the asserted "spot price," or whether you instead sold the coal "as is" in a less than fully processed state or in a less than fully useful or fully valuable state. If the sale was not for "spot price," please indicate the number of dollars per short ton earned from the sale.

ANSWER:

No sale has ever had to be made to satisfy a bond or financial guarantee claim.

INTERROGATORY NO. 25. Please identify all bonds and all financial guarantees you have ever solicited, sold, or otherwise issued in this state, or affecting subjects located wholly or in part or to be performed within this state, and all persons having to do therewith. Include in your answer (a) the date of bond or financial guarantee issuance, (b) the type of bond(s) and financial guarantee(s) issued, (c) the identity of each surety on the bond or financial guarantee, including the identity of all persons other than yourself that have been named as a second "individual surety" on bonds and financial guarantees you have issued, (d) the identity of each principal and owner on each bond and each financial guarantee, (e) the amount of each bond and each financial guarantee, (f) your fee or premium collected for issuing each bond and each financial guarantee, and (g) whether notices of default, financial guarantee claims, or bond claims were made.

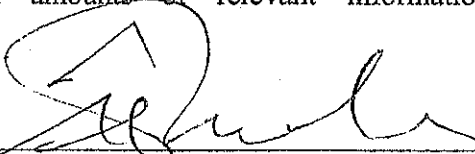
OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 14

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. It is also objectionable in that it requests privileged work product material and otherwise privileged information. Further, the information sought is irrelevant to any of the issues pending in the matter. Notwithstanding that objection, Scarborough offers that the website for the IBCS Group, Inc., www.ibcs.com, includes substantial amounts of relevant information. See Attachment B.

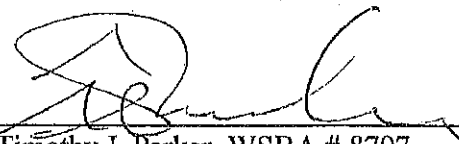


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 26. Please identify all persons other than yourself that have been named as a second "individual surety" on all bonds and all financial guarantees you have issued in states beside Washington.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. Business outside Washington is not within the OIC's jurisdiction and is not relevant to this issue. Notwithstanding that objection, Scarborough offers that the website for the IBCS Group, Inc., www.ibcs.com, includes relevant information.



Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 27. Please indicate how you calculate and determine the fee or amount of premium you charge and collect for each of your bonds and your financial guarantees that you sell, and identify the people who keep or receive any portion of that money. If this money is reserved in any way to satisfy claims, please explain how this occurs and identify all accounts used for this purpose.

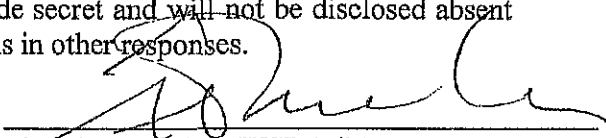
ANSWER:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 15

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

Objection: This information is a trade secret and will not be disclosed absent protective order. As per the objections in other responses.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 28. Please identify all "Irrevocable Trust Receipts," "indentured trust agreements," "trust indenture agreements," and "trust agreements" related to bonds and financial guarantees that were issued in this state, or that affect subjects located wholly or in part or to be performed within this state, or any persons having to do therewith.

ANSWER:

Please reference Mr. Miles' letter outlining bonds issued in the state of Washington. See Attachment B.

INTERROGATORY NO. 29. Please identify all persons who have, since 2003, issued "Irrevocable Trust Receipts" relating to your bonds and your financial guarantees.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome especially, but not limited to, time frame and business outside the jurisdiction of the OIC.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 30. Please indicate the claims payout rate on all bonds and financial guarantees you have issued. As part of your answer, please identify the total number of bonds and the total number of financial guarantees written, including the total number of new bonds and the total number of new financial guarantees written each month since 2003, and the total number of claims paid in full for the amount demanded.

ANSWER:

As of 2009, the most recent year in which this number was calculated, it was reported that the claims payout rate was .0013%.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 16

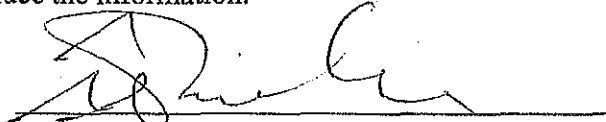
CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

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 had 10 (ten) in-force bonds or financial guarantees worth an aggregate value of \$1 million dollars.)

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. It is also objectionable in that it requests privileged work product material and otherwise privileged information. Further, the information sought is irrelevant to any of the issues pending in the matter. Also, the information sought is simply intended to burden the defendant with unnecessary work requiring the defendant to do the work of plaintiff's attorneys and of attorneys in unrelated matters. Also this is no more than an attempt to embarrass Scarborough. There are voluminous documents and information related to these questions, only a few of which relate to the issue at hand. As well, the question seeks trade secret and confidential information. The information requested will not be released without a protective order being in place to assure confidentiality and nonproliferation and payment for the time it takes to produce the information.


Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 32. For all claims paid under bonds you have issued, please identify the source of the funds and accounts used to pay the claims.

ANSWER:

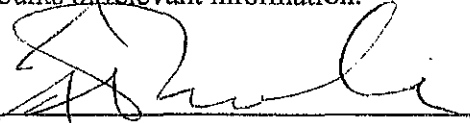
Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome especially, but not limited to, time frame and business outside the jurisdiction of the OIC. It is also objectionable in that it requests privileged work product material and otherwise privileged information. Further, the information sought is irrelevant to any of the issues pending in the matter. Also, the information sought is simply intended to burden the defendant with unnecessary work requiring the defendant to do the work of plaintiff's attorneys and of attorneys in unrelated matters. Also this is no more than an attempt to embarrass Scarborough.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE'TO - 17

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

There are voluminous documents and information related to these questions, only a few of which relate to the issue at hand. As well, the question seeks trade secret and confidential information. The information requested will not be released without a protective order being in place to assure confidentiality and nonproliferation and payment for the time it takes to produce the information. Notwithstanding that objection, Scarborough offers that the website for the IBCS Group, Inc., www.ibcs.com, includes substantial amounts of relevant information.



Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 33. Please describe and explain the meaning of "funds control" as referenced with regard to your bonds. As part of your answer, describe what you and other persons do to accomplish "funds control."

ANSWER:

Funds control is when contract earnings and other project funds are deposited into an account held jointly by IBCS and the prime contractor. The purpose is to assure payment to subcontractors and suppliers on the project for their prorated share of each month's draw.

INTERROGATORY NO. 34. Please describe the services you provide upon issuance of bonds and financial guarantees.

ANSWER:

IBCS sends out monthly status reports to each owner and each prime contractor seeking status reports for job progress, subcontractor and supplier payment status and similar topics. The concept is to provide project oversight on a monthly basis.

INTERROGATORY NO. 35. Please describe in detail your experience, work, and relationship, past and present, with Larry J. Wright and Robert Joe Hanson. Include in your description any bond or financial guarantee issuing or selling activity, past and present.

ANSWER:

To the best of Scarborough's knowledge, Larry Wright is the owner of Underwriters Reinsurance, the company that reinsured his bonds from 2004 to

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERETO - 18

CARNEY
BADLEY
SPELLMAN


LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

June 2007. See answer to Interrogatory No. 9. Regarding Robert Joe Hanson, Scarborough has never to his knowledge and recollection met Hanson nor spoken with him nor had any experience or relationship with him nor worked with him.

INTERROGATORY NO. 36. Please identify and explain the underwriting standards that need to be met before you issue a bond or financial guarantee.

ANSWER:

Objection: This is trade secret information and will not be disclosed absent protective order.



Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 37. Please explain in detail your relationship with Wells Fargo as to your bonds and financial guarantees, including when and how it began, and its current status. Include in your answer the following: (a) a description of how Wells Fargo first came to issue Irrevocable Trust Receipts ("ITRs") for your bonds, (b) an identification of all of your agreements, indentures, and arrangement that set forth the terms of your relationship with Wells Fargo for the latter to issue ITRs (including the number of dollars Wells Fargo receives and from who for each bond you issue), (c) an identification of the services, duties, and acts Wells Fargo is bound to perform and does perform pursuant to your relationship regarding either bonds or financial guarantees, (d) indicate the total number of ITRs Wells Fargo has issued to date relative to bonds you have issued, (e) indicate the total number of ITRs Wells Fargo issued which have not yet expired, and (f) indicate the amount of money Wells Fargo receives for its services, duties, and acts performed pursuant to your relationship.

ANSWER:

Wells Fargo issues the ITR's. Wells Fargo's obligations are described therein.

INTERROGATORY NO. 38. Have you identified a successor person or entity who will issue ITRs or some functionally similar or identical instrument upon your termination of the relationship with Wells Fargo? Please identify them.

ANSWER:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 19

CARNEY
BADLEY
SPELLMAN

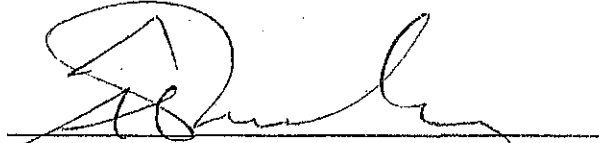
LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

No successor has been determined. Scarborough is not writing bonds subject to OIC jurisdiction.

INTERROGATORY NO. 39. Please explain and describe your tonnage calculation open ITR report, such as what it is and what its purpose is, and identify the persons who prepare and update it.

ANSWER:

Objection: Scarborough objects to this interrogatory question in that it is overly broad and unduly burdensome. It is also objectionable in that it requests privileged work product material and otherwise privileged information. Further, the information sought is irrelevant to any of the issues pending in the matter. The information requested will not be released without a protective order being in place to assure confidentiality and nonproliferation and payment for the time it takes to produce the information.



Timothy J. Parker, WSBA # 8797

INTERROGATORY NO. 40. Do you contend that the Washington State Office of the Insurance Commissioner is incorrect in this matter, or has no right or authority to take any action against you for or relating to any and all of your bonds and financial guarantees transacted, solicited, sold, or otherwise issued in this state, or affecting subjects located wholly or in part or to be performed within this state, and all persons having to do therewith? Unless your answer is an unqualified "no," please set forth all reasons for any answer other than an unqualified "no" and identify all documents supporting your answer.

ANSWER:

Federal regulations are preemptive. As to the state, Individual Surety bonds are allowed. Regardless, PSB's counsel, Mr. Grow, accepted the bonds on behalf of PSB after performing what he termed extensive research. Scarborough offered the bonds and PSB accepted them. If PSB was incorrect in so doing, then OIC should so instruct PSB.

INTERROGATORY NO. 41. Please identify each person (other than any expert witnesses) you plan to ask to testify or reserve the right to ask to testify on your behalf in this matter.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO -- 20

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

For each, indicate the subject matter and a brief overview of the matters testimony will or may be provided.

ANSWER:

Too early, not identified yet. Will supplement.

INTERROGATORY NO. 42. Please fully identify each individual you intend to call as an expert witness in this matter, and for each such witness, please state the individual's area of expertise and expert qualifications.

ANSWER:

Too early, not identified yet. Will supplement.

INTERROGATORY NO. 43. As to each expert identified in your answer to the foregoing Interrogatory, please summarize the opinion or opinions such expert is expected to express and state the grounds for each such opinion.

ANSWER:

Too early, not identified yet.

INTERROGATORY NO. 44. Please identify all documents and other physical evidence you reserve the right to offer into evidence in this matter.

ANSWER:

Too early, not all identified yet.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 21

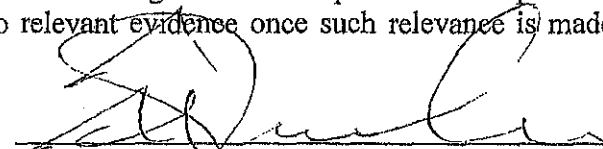
CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

FIRST REQUESTS FOR PRODUCTION

OBJECTION

Respondent Scarborough objects to these Requests for Production for the reasons set forth in answer and objection to the above interrogatories. Respondent will produce documents that are relevant or will lead to relevant evidence once such relevance is made known.



Timothy J. Parker, WSBA # 8797

REQUEST FOR PRODUCTION NO. 1. Please produce true and correct copies of documents showing a few examples of marketing materials used to try to get people to buy or to get people to sell your bonds or financial guarantees, such as e-mail.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2. Please produce true and correct copies of all documents setting forth any agreements between you and any of the entities identified in the first interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3. Please produce true and correct copies of all documents setting forth agreements between you and the person or any of the entities identified in the ninth interrogatory.

RESPONSE:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 22

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

REQUEST FOR PRODUCTION NO. 4. Please produce true and correct copies of all documents setting forth purchase price or purchase terms of properties referenced in the seventeenth interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5. Please produce true and correct copies of all documents providing any opinions, evaluations, analyses, or reasoned assessments referenced in the nineteenth interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6. Please produce true and correct copies of all documents setting forth the data referenced in interrogatory number twenty.

RESPONSE:

REQUEST FOR PRODUCTION NO.7. Please produce true and correct copies of all documents setting forth the data referenced in interrogatory number twenty-one.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8. Please produce true and correct copies of all documents you assert prove your present ability to promptly sell at spot price the coal you claim to own and claim to be able to sell to pay claims.

RESPONSE:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 23

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

REQUEST FOR PRODUCTION NO. 9. Please produce true and correct copies of all documents you assert prove your past ability to promptly sell at spot price the coal you claim to own and claim to be able to sell to pay claims, from the time you began issuing bonds and financial guarantees to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10. Please produce true and correct copies of all coal sale agreements for all coal you have sold to satisfy bond or financial guarantee claims.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11. Please produce true and correct copies of all bonds and all financial guarantees you have ever solicited, sold, or otherwise issued in this state, or affecting subjects located wholly or in part or to be performed within this state, and all persons having to do therewith.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12. Please produce true and correct copies of all notices of default, financial guarantee claims, and bond claims you have received.

RESPONSE:

REQUEST FOR PRODUCTION NO: 13. Please produce true and correct copies of all contracts and other agreements you or any of the entities listed in interrogatory number one have with any person named as a second "individual surety" on any bonds and any financial guarantees you have issued.

RESPONSE:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 24

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

REQUEST FOR PRODUCTION NO. 14. Please produce true and correct copies of all agreements and contracts with all persons who have, since 2003, issued "Irrevocable Trust Receipts" relating to your bonds and your financial guarantees.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15. Please produce true and correct copies of all "Irrevocable Trust Receipts," "indentured trust agreements," "trust indenture agreements," and "trust agreements" related to bonds and financial guarantees that were issued in this state, or that affect subjects located wholly or in part or to be performed within this state, or any persons having to do therewith.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16. Please produce true and correct copies of all documents (such as forms and checklists) setting forth or relating to the underwriting standards that you claim need to be met before you issue a bond or financial guarantee.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17. Please produce true and correct copies of all tonnage calculation open ITR reports from 2003 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18. Please produce true and correct copies of all reports of any expert witnesses you retain the right to call at hearing in this matter, and copies of all documents given to or received from the expert(s).

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 25

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

RESPONSE:

REQUEST FOR PRODUCTION NO. 19. Please produce true and correct copies of bankruptcy petitions filed by you or your wife.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20. Please produce true and correct copies of each resume and each *curriculum vitae* of each expert witness you retain the right to call at hearing in this matter.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21. Please produce a true and correct copy of your resume or *curriculum vitae*.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22. Please produce true and correct copies of all licenses and permits to conduct mining, processing, and selling of coal related to your bond and financial guarantee business.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23. Please produce true and correct copies of all documents demonstrating the ownership of the West Virginia and Kentucky coal properties related to your bond and financial guarantee business.

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 26

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

RESPONSE:

REQUEST FOR PRODUCTION NO. 24. Please produce true and correct copies of all documents providing the value or market value of the West Virginia and Kentucky coal properties related to your bond and financial guarantee business.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25. Please produce true and correct copies of all reports and other documents you have ever seen or received asserting, proving, or setting forth the market value of all coal related to your bond and financial guarantee business, from 2003 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26. Please produce true and correct copies of all bond logs from 2003 to the present, including those that set forth the total dollar amount of outstanding bonds and financial guarantees.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27. Please produce true and correct copies of all documents (including but not limited to agreements, contracts, letters, e-mail, and facsimiles) you or your attorneys sent to or received from Wells Fargo setting forth (a) your relationship and/or agreements with Wells Fargo, past present and future, and (b) your and Wells Fargo's expectations for the rules and parameters of the relationship, past present and future.

RESPONSE:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 27

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

REQUEST FOR PRODUCTION NO. 28. Please produce true and correct copies of all documents responsive to interrogatory number forty and interrogatory number forty-four.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29. Please produce true and correct copies of your and your wife's federal tax returns from 2003 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30. Please produce all other documents identified in any of your answers to the preceding interrogatories that you have not already produced.

RESPONSE:

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERETO - 28

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

VERIFICATION

I, Edmund C. Scarborough, certify and declare under penalty of perjury under the laws of the state of Washington that I am the Respondent to whom these Interrogatories and Requests for Production are directed. I have read the above and foregoing Interrogatories and Requests for Production and the answers and responses thereto, know the contents thereof and believe the same to be true.

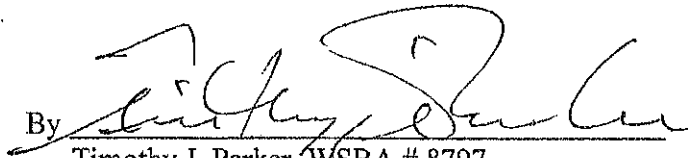
DATED this _____ day of _____, 2013 at _____.

Edmund C. Scarborough

Pursuant to CR 26(g), I certify that I have read the foregoing answers, responses, or objections, and to the best of my knowledge, information and belief, formed after a reasonable inquiry, such answers, responses or objections are (1) consistent with the Rules of Civil Procedure and warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (3) not unreasonably or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

DATED this 28th day of October, 2013.

CARNEY BADLEY SPELLMAN, P.S.

By 

Timothy J. Parker, WSBA # 8797
Attorney for Edmund C. Scarborough

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 29

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215


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 October 28, 2013, I caused to be delivered via email and U.S. mail a copy of the foregoing document on the following parties at the last known address as stated:

<u>Attorney for OIC</u> Mr. Alan M. Singer Staff Attorney, Legal Affairs Division Office of the 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 28th day of October, 2013.



Christine Williams, Legal Assistant

OIC'S FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
EDMUND C. SCARBOROUGH AND
ANSWERS AND RESPONSES
THERE TO - 30

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215



ORIGINAL

Edmund Scarborough, Individual Surety
944 Glenwood Station Lane Suite 104
Charlottesville, VA 22901-1480

SURETY RIDER

To be attached to and form a part of Bond Number SKYLINEPP05112011 executed by
Skyline Contractors, Inc.

as Principal and by Edmund Scarborough, Individual Surety, as Surety in favor of the
City of Clarkston, as Oblige and effective as of May 11, 2011.

In consideration of the mutual agreements herein contained, the Principal and Surety
hereby consent to the following changes:

1. Bond Number SKYLINEPP05112011 and the Irrevocable Trust Receipt which secured the Bond expired on May 11, 2012, pursuant to Section 13 of both the Performance and Payment Bonds
2. As timely claims were made on Bond Number SKYLINEPP05112011, said Bond and the Irrevocable Trust Receipt, which secures the above noted Bond, are hereby extended through May 11, 2014
3. Extension of Bond Number SKYLINEPP05112011 does not cover potential claims for work performed or materials supplied after May 11, 2012
4. Extension of Bond Number SKYLINEPP05112011 only protects claims timely and properly brought prior to this Rider being executed
5. This Rider does not support or deny the legitimacy of the various timely claims made against Bond Number SKYLINEPP05112011
6. Issuance of replacement Irrevocable Trust Receipt SKYLINEPP05112011-2 terminates and replaces ITR SKYLINEPP05112011

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as herein expressly stated.

Signed, sealed & dated on March 12, 2013

Skyline Contractors, Inc., Principal

By: _____

Edmund Scarborough, Individual Surety

By: Steven Golia

Steven Golia, Attorney-in-fact

ORIGINAL
E1255

POWER OF ATTORNEY FOR EDMUND SCARBOROUGH

944 Glenwood Station Lane Suite 104 Charlottesville, VA 22901
www.tbcs.com

KNOW ALL MEN BY THESE PRESENTS that, EDMUND SCARBOROUGH, Individual Surety ("Principal") hereby makes, constitutes and appoints:


STEVEN A. GOBIA

to be Principal's true and lawful attorney-in-fact (Attorney-in-Fact), for him and in his name, place and stead to deliver and acknowledge, for and on behalf of Principal, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as Principal could do, and all of the acts of said Attorney-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

That the signature of the Attorney-in-Fact, either original or a true and correct copy, affixed to any such document relating to the purpose of this Power of Attorney as authorized herein shall be valid and binding upon the Principal with respect to any bond, undertaking or contract of suretyship to which it is attached.

The undersigned hereby ratifies and confirms all that said Attorney-in-Fact shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this Limited Power of Attorney as of the 15th day of January, 2013.


Edmund Scarborough


Specimen signature of Attorney-in-Fact


Steven A. Gobia

STATE OF VIRGINIA
COUNTY OF ALBEMARLE

Be it known, That on the 15th day of January, 2013, before me, Michelle R. Brown, a Notary Public in and for the State of Virginia, duly commissioned and sworn, appeared Edmund Scarborough personally known to the undersigned Notary Public, who executed the within Power of Attorney, and he acknowledged the within Power of Attorney to be his act and deed.

SWORN TO AND SUBSCRIBED before me this 15th day of January, 2013.


SIGNATURE OF NOTARY PUBLIC
Printed Name Michelle R. Brown

Personally Known Produced Identification

Type of Identification Produced: _____





Wells Fargo Bank Northwest, N.A.

ORIGINAL
Corporate Trust, Lease Group
M.A.# 01240-026
260 N. Charles Lindbergh Drive
Salt Lake City, UT 84116-2812
Tel: 801 246 6000
Fax: 801 246 7142
wellsfargo.com/cor/corporate-trust/lease

CORR 45429

Writers Direct Number:
(801) 246-7035
E-Mail jnester@wellsfargo.com

March 12, 2013

VIA FedEx

Steven Golia
112 West End Avenue
Haddonfield NJ, 08033

RE: ITR No. SKYLINEPP05112011-2

Steven,

Enclosed please find the signed above referenced ITR.

Regards,

Johnny Nester
Account Associate

Enclosures

Wells Fargo Bank Northwest, N.A.



 ORIGINAL

**IRREVOCABLE TRUST RECEIPT NO. SKYLINEPP05112011-2
(Terminates and replaces ITR No. SKYLINEPP05112011)**

IRREVOCABLE TRUST RECEIPT No. SKYLINEPP05112011-2 dated as of
March 11, 2013 (this "ITR"), of Wells Fargo Bank Northwest, N.A. ("Indenture Trustee").

WITNESSETH:

WHEREAS, the Trust Indenture and Security Agreement (Surety Bond Trust No. 2), dated as of April 16, 2009, as amended (the "Indenture"), between IBCS Mining Inc., Kentucky Division ("IBCS"), and Indenture Trustee, provides for the execution and delivery of Irrevocable Trust Receipts, including this Irrevocable Trust Receipt (this "ITR").

WHEREAS, the Indenture relates to the assets described on Schedule A hereto and made a part hereof, which assets are a portion of the Trust Indenture Estate (as defined in the Indenture)

NOW, THEREFORE, THIS ITR WITNESSETH that, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment by Edmund C. Scarborough ("Surety") of all amounts payable to or for the benefit of the Beneficiary specified on Schedule A hereto ("Beneficiary") under the Bond specified on Schedule A hereto (the "Bond") outstanding from time to time, and to secure the performance by Surety of its obligations under the Bond (collectively, such amounts and obligations, the "Obligations"), Indenture Trustee hereby, for the benefit and security of Beneficiary respecting the Obligations, acknowledges that pursuant to the terms of the Indenture, the Indenture Trustee is granted, for the benefit of Beneficiary and its successors and assigns, a security interest in all of IBCS's estate, right, title and interest in and to the following described assets, whether now owned or hereafter acquired (other than Excepted Property as defined in the Indenture):

the security interest for the allocated assets described on Schedule A hereto;

all substitutions, renewals or replacements of the allocated assets described on Schedule A hereto whether the same are now owned or hereafter acquired by Owner; and

all property insurance proceeds related thereto.

Any moneys received or held by Indenture Trustee with respect to the allocated assets described on Schedule A hereto shall be distributed by Indenture Trustee to Beneficiary as specified in Section 5.03 of the Indenture.

This ITR is governed by the laws of the State of Utah.

AND, FURTHER, Beneficiary (together with all those who may claim by, through or under Beneficiary) is hereby notified of the terms and conditions of the Indenture, including Section 7.05 thereof, which reads as follows:

SKYLINEPP05112011-2

 ORIGINAL

Section 7.05 Limitation on Responsibility of Indenture Trustee.


(a) The recitals contained herein shall be taken as the statements of Owner, and Indenture Trustee assumes no responsibility for their correctness. Indenture Trustee makes no representation as to the value or condition of the Trust Indenture Estate or any part thereof, as to the title of Owner thereto or as to the security afforded thereby or hereby, as to the validity or genuineness of any securities at any time pledged or deposited with Indenture Trustee hereunder or as the validity or sufficiency of this Indenture or the Lien created hereunder or any of the Operative Documents. Indenture Trustee shall not be responsible for the performance or nonperformance by Owner under the Bonds.

(b) Indenture Trustee (except in accordance with Section 6.03 or 7.02(b) and subject to Sections 7.02(c) and 7.04) shall have no duty (i) to see to any insurance on the Trust Indenture Estate or to effect or maintain any such insurance, whether or not Owner shall be in default with respect thereto, (ii) to see to the payment or discharge of any tax, assessment or other governmental charge or any Lien owing with respect to or assessed or levied against any of the Trust Indenture Estate, (iii) to inspect the Trust Indenture Estate at any time or ascertain or inquire as to the performance or observance of any of the covenants of Owner with respect to the Trust Indenture Estate, or (v) except as set forth herein, to see to any filing or recording or see to the maintenance of any such filing or recording with any governmental agency or office.

The Indenture contains other disclaimers and limitations of the responsibilities of Indenture Trustee. A copy of the Indenture has been given to Beneficiary. Beneficiary is advised to carefully review the Indenture.

IN WITNESS WHEREOF, Indenture Trustee has caused this ITR to be duly executed on the day and year first above written.

Wells Fargo Bank Northwest, N.A., as
Indenture Trustee

By: 
Name: Alan D. Doty
Title: Assistant Vice President

Address for notices:

MAC: U1240-026
260 North Charles Lindbergh Drive
Salt Lake City, UT 84116
Telecopy No.: (801) 246-7142

 ORIGINAL

SCHEDULE A
To
Irrevocable Trust Receipt No. SKYLINEPP05112011-2

DESCRIPTION OF ALLOCATED ASSETS SUBJECT TO THE ITR

Description	Quantity	Location
Surface, previously mined, coal ¹	29,000.14 gross tons	Those certain six tracts of land in Pike County, Kentucky, owned by Owner (Kentucky Berwind tracts 1006. 1272, 173, 540 1007 and a portion of certain Kentucky Berwind tracts described in Deed Book 607, page 647, of the Pike County Clerk's office)

Obligee/Beneficiary: City of Clarkston

Obligee/Beneficiary's address for notices: 829 5th St., Clarkston, WA 99403

Bond Number: SKYLINEPP05112011-2

Contract Amount: \$754,543.09

Project: City of Clarkston Public Safety Building Improvements

#11349589_v3

¹ The described collateral is unprocessed waste material, including gob piles, from prior mining operations, and includes coal which is commingled with coarse material and fines.

SKYLINEPP05112011-2

80 ORIGINAL

Edmund Scarborough, Individual Surety

Dedicated Asset Calculation for Bond No. | SKYLINEPP05112011-2

Based on the most current information available from the U.S. Department of Energy, the estimated value of the asset dedicated in connection with this specific surety bond is: \$829,997.40

The Trustee has provided the attached Irrevocable Trust Receipt as evidence of the dedicated asset held in trust for the benefit of obligees on this bond. See the attached instrument issued by Wells Fargo Bank Northwest N.A. for further details.

Principal	Skyline Contractors, Inc.
Project Name	City of Clarkston Public Safety Building Improvements
Calculation Date	3/11/2013

Required Guarantee Amount	\$ 754,549.09
1.) Required guarantee amount plus 10%	\$ 829,997.40
2.) Current Coal Spot Price	\$ 64.96
3.) Net Tons Required	\$ 12,777.05
4.) Gross Tons Required (Net Tons, x Two)	25,554.11
5.) Finishing Expense (Number of Gross Tons, x \$4.38)	\$ 111,926.99
6.) Additional Net Tons to Offset Processing Costs	1,723.01
7.) Additional Gross Tons to Defray Processing Costs	3,446.03
8.) Total Tonnage of Coal to be Referenced in ITR	29,000.14
9.) Total Value of Processed Coal Included in Total Tonnage	\$ 941,924.59

Methodology:

- Step 1.) Required bond guarantee amount, plus ten percent additional for benefit of obligee, (Required Guarantee Amount x 1.1)
- Step 2.) "Current Coal Spot Price" is based on information published by the Federal Energy Information Administration on their web site: <http://www.eia.doe.gov/cneaf/coal/page/coalnews/coalmar.html>
- Step 3.) Tons of processed coal needed to meet 110% of obligation, (Step 1 / Step 2)
- Step 4.) Total tons of unprocessed coal needed to make net tons of processed coal, (Step 3 x two). Two or less gross tons are required to produce one net ton.
- Step 5.) Cost of processing coal to get tonnage in Step 3, (Step 4 x \$4.38)
- Step 6.) Additional net tons to offset processing costs, (Step 5 / Step 2)
- Step 7.) Additional gross tons to defray processing costs, (Step 6 x two). Two or less gross tons are required to produce one net ton.
- Step 8.) Total tonnage of coal to be referenced in the ITR, (Step 4 + Step 7)
- Step 9.) Total value of processed coal included in total tonnage, ((Step 3 + Step 6), x Step 2)



U.S. Energy Information
Administration

Coal

Coal News and Markets

Release Date: March 11, 2013 | Next Release Date: March 18, 2013

"Coal News and Markets Report" summarizes spot coal prices by coal commodity regions (i.e., Central Appalachia (CAP), Northern Appalachia (NAP), Illinois Basin (ILB), Powder River Basin (PRB), and Uinta Basin (UIB)) in the United States. The report includes data on average weekly coal commodity spot prices, total monthly coal production, eastern monthly coal production, and average cost of metallurgical coal at coke plants and export docks. The historical data for coal commodity spot market prices are proprietary and not available for public release.

Average weekly coal commodity spot prices (dollars per short ton)

Week Ended	Central Appalachia 12,500 Btu, 1.2 SO2	Northern Appalachia 13,000 Btu, <3.0 SO2	Illinois Basin 11,800 Btu, 5.0 SO2	Powder River Basin 8,800 Btu, 0.8 SO2	Uinta Basin 11,700 Btu, 0.8 SO2
08-February-13	\$66.50	\$62.10	\$47.90	\$10.15	\$35.85
15-February-13	\$66.50	\$62.10	\$47.90	\$10.25	\$35.85
22-February-13	\$66.50	\$62.10	\$45.15	\$10.25	\$35.85
01-March-13	\$64.96	\$62.10	\$45.15	\$10.25	\$35.85
08-March-13	\$64.96	\$62.10	\$45.15	\$10.25	\$35.85

Source: With permission, SNL Energy

Note: Coal prices shown are for a relatively high-Btu coal selected in each region, for delivery in the "prompt quarter." The prompt quarter is the quarter following the current quarter. For example, from January through March, the 2nd quarter is the prompt quarter. Starting on April 1, July through September define the prompt quarter. The historical data file of spot prices is proprietary and cannot be released by EIA; see SNL Energy.

Ballard Spahr LLP

100 North City Parkway, Suite 1750
Las Vegas, NV 89106-4617
TEL 702.471.7000
FAX 702.471.7070
www.ballardspahr.com

Michael M. Miles
Direct: 702.868.7514
Fax: 702.471.7070
milesm@ballardspahr.com

February 5, 2013

Andrea L. Philhower
Staff Attorney - Legal Affairs
State of Washington, Office of Insurance Commissioner
P.O. Box 40255
Olympia, Washington 98504-0255

Re: Edmund Scarborough - OIC Case #1061698

Dear Andrea:

Below is the information you requested in your letter dated January 8, 2013. Mr. Scarborough issued each of the following bonds.

	Date	Bond Number	Bond Amount	Contractor	Obligee
1	4/16/2009	SKYLINEPP04162009	\$156,173.14	Skyline Contractors, Inc	City of Spokane Valley
2	7/15/2010	SKYLINEPP07152010	\$1,044,800.00	Skyline Contractors, Inc	Lewis Clark Early Childhood Program
3	5/11/2011	SKYLINEPP05112011	\$754,543.09	Skyline Contractors, Inc	City of Clarkston
4	5/24/2011	ATBPP05242011	\$177,431.00	Above the Board Construct	Atlantic Marine Constr; Fort Lewis
5	6/24/2011	ATBPP06242011	\$89,614.00	Above the Board Construct	John J. Kirlin; Madigan Medical, Fort Lewis
6	7/6/2011	ATBPP07132011	\$131,571.00	Above the Board Construct	Atlantic Marine Constr; Fort Lewis, Yakima
7	4/27/2012	CMECPP04272012	\$66,313.00	CMEC, Inc.	United States of America (USAED) Walla2
8	6/13/2012	CMECPP06132012	\$51,737.00	CMEC, Inc.	United States of America (USAED) Seattle
9	8/30/2012	SABELHAUSPP08302012	\$1,197,209.16	CMEC - Sabelhaus West JV	United States of America (USACE) Seattle

DMWEST #9602348 v2

Atlanta | Baltimore | Bethesda | Denver | Las Vegas | Los Angeles | New Jersey | Philadelphia | Phoenix | Salt Lake City | San Diego
Washington, DC | Wilmington | www.ballardspahr.com

Andrea L. Philhower
 February 5, 2013
 Page 2

10	9/7/2012	SABELHAUSPP09072012	\$164,708.70	CMEC - Sabelhaus West JV	United States of America (USACE) Seattle
11	9/13/2012	SABELHAUSPP09132012	\$233,479.38	CMEC - Sabelhaus West JV	US Navy (NAVFAC) Chugash Industries
12	10/10/2012	SABELHAUSPP10102012	\$549,208.03	CMEC - Sabelhaus West JV	United States of America (USACE) Seattle
13	10/17/2012	SABELHAUSPP10172012	\$2,343,829.10	CMEC - Sabelhaus West JV	United States of America (USACE) Seattle

	Bond Number	Bond Amount	IBCS Fee	Bond Agent	Agent Fee
1	SKYLINEPP04162009	\$156,173.14	\$23,512.48	Wolf Majeskey Rapp, Inc.	\$2,352.00
2	SKYLINEPP07152010	\$1,044,800.00	\$36,568.00	Wolf Majeskey Rapp, Inc.	\$3,657.00
3	SKYLINEPP05112011	\$754,543.09	\$26,409.01	Wolf Majeskey Rapp, Inc.	\$2,641.00
4	ATBPP05242011	\$177,431.00	\$6,210.09	W Insurance Group	\$621.00
5	ATBPP06242011	\$89,614.00	\$3,136.49	W Insurance Group	\$313.65
6	ATBPP07132011	\$131,571.00	\$4,604.00	W Insurance Group	\$460.40
7	CMECPP04272012	\$66,313.00	\$2,320.96	IBCS Only	
8	CMECPP06132012	\$51,737.00	\$1,810.00	IBCS Only	
9	SABELHAUSPP08302012	\$1,197,209.16	\$41,902.32	Heffernan Insurance Brokers	\$4,190.23
10	SABELHAUSPP09072012	\$164,708.70	\$5,764.80	Heffernan Insurance Brokers	\$576.48
11	SABELHAUSPP09132012	\$233,479.38	\$8,172.41	Heffernan Insurance Brokers	\$817.24
12	SABELHAUSPP10102012	\$549,208.03	\$19,222.28	Heffernan Insurance Brokers	\$1,922.23
13	SABELHAUSPP10172012	\$2,343,829.10	\$82,034.02	Heffernan Insurance Brokers	\$8,203.40

A majority of the bonds were issued for federal projects conducted on federal land.

If you need any additional information please do not hesitate to contact me.

Sincerely,



Michael M. Miles

MMM:shw

November 27, 2013 declaration of Alan Michael Singer

Exhibit C



OFFICE OF
INSURANCE COMMISSIONER

November 1, 2013

VIA US MAIL AND E-MAIL (Parker@Carneylaw.com)

Timothy J. Parker
Carney Badley Spellman, P.S.
701 Fifth Ave., Ste. 3600
Seattle, WA 98104-7010

In re: Edmund C. Scarborough, et al, Docket No. 13-0084

Dear Mr. Parker:

This letter is to provide you with further notice and clarification of my understanding of the facts, matters, and issues for the Washington Office of the Insurance Commissioner's ("OIC") hearing scheduled to begin on January 22, 2014. I also write to ask for your cooperation in scheduling a CR 26(i) conference as quickly as possible.

FACTS, MATTERS, AND ISSUES FOR HEARING

Commencement of OIC's investigation and relevant laws

In or about May of 2012 OIC learned of bonds Respondent Scarborough issued within the scope of the Washington Insurance Code ("Code") and related civil litigation which alleged Respondent Scarborough failed to indemnify and defend under his bonds.

Under Washington law, a certificate of authority is required to offer insurance, including bonds. RCW 48.05.030(1) and RCW 48.11.080. The solicitation of unauthorized insurance is illegal, and in fact, is a class C felony. RCW 48.15.020-023. No unlicensed person may solicit applications for insurance or act as an unlicensed insurance agent or broker. RCW 48.17.060. It is also unlawful to misrepresent any terms of offered insurance, RCW 48.30.090, to make false or misleading statements and representations in or relative to the conduct of the business of insurance, RCW 48.30.040, to use a name in a manner deceptively suggesting one is an authorized insurer, RCW 48.30.060, to advertise assets except those actually owned and possessed by the insurer available for the payment of losses and claims, RCW 48.30.070(2), to make or disseminate financial statements inaccurately stating financial condition, RCW 48.30.030, and to engage in any unfair claims practices, *see* WAC 284-30-300 through WAC 284-30-400.

Neither Respondent Scarborough nor any known entity associated with him is licensed or authorized by OIC.

Earlier this year, OIC took two actions. First, OIC issued an order to cease and desist. Second, OIC issued a March 8, 2013 Notice of Request for Hearing For Imposition of Fines ("Notice") indicating OIC's intent to impose fines against Mr. Scarborough for his violations of the Code. Respondent Scarborough demanded a hearing as to both.

Respondent Scarborough's bond and financial guarantee-issuing activity

The hearing will focus on any and all aspects of Respondent Scarborough's bond-issuing activity which falls within the scope of the Code, including the conduct and issues briefly referenced herein. This includes his knowledge and awareness of his status as an unauthorized insurer, risk of harm to the public, and any and all aspects of all of his bonds and bond-issuing activity within the scope of the Code. This may or may not also include his financial guarantee-issuing activity – discovery is ongoing and all of his bond and all of his financial guarantee activity has yet to be determined.

Briefly, it appears that Respondent Scarborough has conducted his bond business using businesses with names that infer and suggest he is an authorized insurer – names such as "IBCS Fidelity, Inc.," for example, which entity's website states that it is the "national underwriting department" for his bond business.

In his business, Respondent Scarborough issued a presently unknown number of bonds (and possibly also financial guarantees) within the scope of the Code, but the total number of Code violations remains unknown. Discovery is ongoing, but the complete scope of Respondent Scarborough's bond and financial guarantee conduct remains, of course, exclusively within your client's possession.

Once he issued his bonds, it appears that Respondent Scarborough continued to transact matters subsequent to the execution of these bonds and that arise out of them, such as negotiating with claimants, denying claims, settling lawsuits, etc.

In the bonds disclosed to OIC so far, upon information and belief, Respondent Scarborough has made a number of representations relative to the business of insurance, relative to his financial condition, and relative to what's supposedly being provided. For example, some of his bonds make representations about coal assets and represent that his coal assets are sufficient to meet obligations under bonds issued. Some of his bonds include language seeking to limit the validity of the bond. Some of his bonds have required approval of progress payments and unilaterally grant him the right to invoke "funds control." Some of his bonds grant him the right to implement "funds control." These, again, are only examples, and are not an exhaustive list of all of the relevant qualities and terms of his bonds.

Much relevant information remains to be confirmed about Respondent Scarborough and his bonds and financial guarantee activity which may fall within the scope of the Code.

The September 27, 2013 discovery issued to your client sought to learn at least some of this information, such as:

- Respondent Scarborough's solvency;
- his assets;
- how he markets or sells his products;
- his partners in "individual surety" signings, and his reasons for that;
- entities he is affiliated with or owns, etc.;
- commission or premium amounts collected, and how determined;
- his claims and underwriting standards and practices;
- his work with various trustees and partners in his bonding activity;
- his litigation history involving his bonding activity;
- his history and details of all administrative proceedings over his bonding activity;
- data regarding his coal and its value; and more.

In addition, it remains to be confirmed who, aside from Respondent Scarborough himself, is soliciting and marketing Respondent Scarborough's illegal bonds, and in so doing, is or may be acting as an unlicensed agent for an unauthorized insurer. Please note that OIC may ask that those persons may be added as Respondents or named as additional Respondents once identified by your client in discovery.

Please also note that while the Notice indicates that a specific fine amount of \$75,000 is sought, it also indicates "[t]here are some discrepancies" as to the entirety of Respondent Scarborough's surety transactions. To clarify, at hearing OIC staff will seek a higher fine amount than \$75,000 be imposed against Respondent Scarborough. The amount sought will be based on the facts as they are revealed at hearing. For example, in one City of Clarkston matter, Respondent Scarborough, through Mr. Golia, actually executed two bonds -- both a payment bond and a performance bond, both bearing the same bond number. Yet, the Notice appears to have erroneously treated these two bonds as just one bond. Please note that each such bond can be subject to a \$25,000 fine, and at hearing, OIC staff will ask the Chief Hearing Officer to impose a \$25,000 fine for each such violation of the Washington Insurance Code. Thus, by way of example, in the City of Clarkston matter, the Commissioner will ask the Chief Hearing Officer to impose a \$25,000 fine for the City of Clarkston payment bond, and an additional \$25,000 fine for the City of Clarkston performance bond, not just \$25,000 for both.

Respondent Scarborough's bonds and bond transaction activity violates the Code

While other states have already found that your client's bonds constitute the illegal offering of unauthorized insurance and have taken action against him, (*see, e.g.,* States of Virginia, Iowa and Idaho proceedings), based on the incomplete and limited information known to date, Respondent Scarborough's bonds and bond-issuing activity within the scope of the Code also violates, at minimum, RCW 48.05.030(1) and RCW 48.15.020. His conduct also appears to have repeatedly violated other relevant Code provisions, too,

Timothy J. Parker
November 1, 2013
Page 4 of 4

such as the ones listed above. At hearing, OIC staff will ask the Chief Hearing Officer to impose fines against Respondent Scarborough commensurate with each and all of Respondent Scarborough's wrongful conduct.

STIPULATION OF FACTS FOR HEARING

If there are facts we may agree to or enter into a stipulation about, please let me know. It may save time at the hearing to prepare a stipulation of undisputed facts for use at the hearing. After you have reviewed this with your clients, I would appreciate your telephoning me to further discuss such a stipulation.

CR 26(i) CONFERENCE REQUEST

Once fully and completely answered, I had anticipated that OIC's first interrogatories and requests for production might lead to additional needed discovery. Thus far, I have only just received your client's "answers and responses" which, in fairness, are largely non-responses and objections, with relatively few "answers" or "responses," let alone full and complete answers and responses.

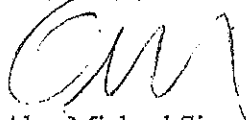
Your client's answers and responses also made repeated allusion to protective orders, but did not suggest any. Nor did your client adhere to the process for securing any as set forth in CR 26(e).

This not only impedes the reasonable discovery efforts propounded to date, it risks jeopardizing our ability to prepare in time to begin the hearing on time in January.

Hopefully the foregoing will assist us in a fruitful CR 26(i) conference. I ask that we schedule a telephone conference pursuant to CR 26(i), and that this conference please occur as soon as possible to discuss your client's discovery response thus far, as well as planning ahead.

Should you have any questions, please feel free to call me at (360) 725-7046.

Very truly yours,



Alan Michael Singer
Staff Attorney, Legal Affairs
Office of the Insurance Commissioner

November 27, 2013 declaration of Alan Michael Singer

Exhibit D

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 REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK NORTHWEST,
N.A.

I. INTRODUCTION

The threshold issue in this proceeding is whether the sale and issuance of fully collateralized individual surety bonds, authorized by law and accepted by public entities, requires a certificate of authority issued by the OIC. In the event a code violation is found, a secondary issue is the appropriate monetary penalty, which depends largely on whether the vast majority of the bonds at issue are outside the OIC's jurisdiction because they were accepted by the federal government under federal law, for work on federal projects. Even though the threshold issues are legal and any fact issues are narrow, the OIC has served extensive and broad discovery requests upon Respondent Edmund C. Scarborough and has now requested that the presiding officer issue a broad subpoena duces tecum to Wells Fargo Bank Northwest, N.A., which acted solely as a trustee holding security interests as collateral for the bonds. The subpoena requests documents that are irrelevant or that Scarborough has

RESPONDENT SCARBOROUGH'S
OPPOSITION TO REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK N.W., N.A. - 1

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

produced. It also encompasses communications protected by the common-interest doctrine. The presiding officer should therefore decline to issue the subpoena.

II. STATEMENT OF FACTS

A. The Scarborough Bond Program.

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.² The Scarborough Bond 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

B. The Skyline-Clarkston Bond.

This matter arose from a complaint to the OIC relating to a bond that Scarborough issued together with Walter W. Wolf.⁴ The bond guaranteed performance and payment by Skyline Contractors, Inc., under a contract with the City of Clarkston, Washington, for remodeling and construction work on the City of Clarkston Public Safety Building.⁵ Scarborough and Wolf executed performance and payment bond documents dated May 11, 2011, valid for one year with a single limit of \$754,543.09.⁶ The City of Clarkston accepted the bond after what the City's counsel described as "legal review on a number of fronts."⁷

¹ *Scarborough Decl.*, ¶ 2.

² *Id.*

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

⁴ *Scarborough Decl.*, ¶ 3

⁵ *Id.*

⁶ *Id.*, ¶ 4 & Exh. A.

⁷ *Scarborough Decl.*, ¶ 4.

RESPONDENT SCARBOROUGH'S
OPPOSITION TO REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK N.W., N.A. - 2

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

The terms and conditions of the bond specifically state that the bond is a guarantee and not an insurance policy.⁸ Attached to the bond was an irrevocable trust receipt (ITR) executed by Wells Fargo Bank Northwest, N.A., as “indenture trustee.”⁹ The bond states that the exclusive source of funds available to the City to pay any claims available under the terms of the bond is the assets represented by the ITR.¹⁰ The ITR is evidence that Scarborough granted to Wells Fargo a first-priority security interest in those specific assets, to be foreclosed upon in the event of a default by Scarborough.¹¹ While the City has never declared a default on the bond, if Scarborough were to default, Wells Fargo is authorized to exercise the rights and remedies of a secured party as to the designated assets, for the benefit of the bondholder and ultimately the claimant.¹²

A dispute arose between the City of Clarkston and Skyline Contractors, which is now in bankruptcy, relating to the Public Safety Building project.¹³ The City of Clarkston filed suit against Skyline Contractors, alleging that it failed to perform certain items of work on the construction contract completely and it failed to pay for certain of the labor, materials, and equipment furnished for use in the construction, resulting in claims against the City totaling \$135,215.59.¹⁴ The City also filed suit against Scarborough, Wolf, and Wells Fargo, seeking relief based on the bond issued to Skyline Contractors.¹⁵ Skyline Contractors answered the City’s suit and filed a counterclaim for damages it alleged were caused by the City.¹⁶ Skyline Contractors further demanded arbitration as provided for in the contract between the City and

⁸ *Id.* & Exh. A.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*, ¶ 5.

¹² *Id.*

¹³ *Scarborough Decl.*, ¶ 6.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

RESPONDENT SCARBOROUGH'S
OPPOSITION TO REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK N.W., N.A. – 3

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

Skyline Contractors and moved for a stay of the City's lawsuit.¹⁷ The City acknowledged that its claim under the payment bond is subject to arbitration.¹⁸ An order was issued staying the lawsuit pending the outcome of the arbitration.¹⁹ The arbitration is being held in abeyance pending action by the bankruptcy trustee.²⁰

Scarborough has issued a total of 13 bonds in Washington.²¹ Ten of those related to work procured by the federal government.²² Three additional bonds were issued to Skyline Contractors for work on public projects that are now completed, and the bonds and claim-filing periods are all expired.²³ One of those three, and the final bond issued in Washington, is the one issued to Skyline Contractors for the Public Safety Building project.²⁴

C. OIC Investigation and Cease and Desist Order.

The OIC commenced an investigation in September 2012. Scarborough's attorneys provided information regarding all 13 bonds he has issued in Washington.²⁵ 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 as an unauthorized transaction of insurance and directed Scarborough and Wolf 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, Scarborough formally denied that he violated the insurance code and that any fine should be imposed, and requested a hearing.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Scarborough Decl.*, ¶ 8.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Scarborough Decl.*, ¶ 8 & Exh. C.

D. OIC Discovery Requests and Request to Issue Subpoena.

The hearing in this matter was originally set to take place in June 2013 but was continued by stipulation. In September 2013, the OIC served Scarborough with 74 discovery requests, including 44 interrogatories and 30 requests for production, most of which are broad and have multiple subparts. On October 28, 2013, Scarborough timely responded with answers and production of documents, but objected to many of the requests on the basis that they are overly broad and unduly burdensome and seek information and documents not relevant to the complained issues, particularly considering the relatively narrow issues involved in this proceeding. 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 Northwest, N.A.

The CR 26(i) conference was held on November 13, 2013. The OIC agreed that certain discovery requests would be withdrawn or narrowed based on (1) representations by Scarborough regarding the limited number of bonds issued in Washington and the status of those bonds and (2) supplemental production of bond documents. However, no agreement was reached regarding the proposed subpoena duces tecum. The subpoena would direct Wells Fargo to produce documents falling within eleven broad categories, likely encompassing *every* document relating to Scarborough's entire history of dealings with the bank, including all communications, all agreements, all reports, etc. Among the documents encompassed by the subpoena are communications between representatives of Scarborough and the bank regarding the litigation in they share common interests as co-defendants. Scarborough opposes issuance of the subpoena.

III. AUTHORITY AND ARGUMENT

Discovery in administrative proceedings is discretionary with the presiding officer. RCW 34.05.446(3). When discovery is permitted, the presiding officer "may condition use of discovery on a showing of necessity and unavailability by other means." *Id.* Discovery is

RESPONDENT SCARBOROUGH'S
OPPOSITION TO REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK N.W., N.A. - 5

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

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 presiding officer's permission. WAC 284-02-070(2)(e)(i). Nevertheless, the rule preserves the presiding 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 presiding officer in ruling on discovery requests include whether the discovery would result in undue expense or delay. RCW 34.05.446(3).

The commissioner has not adopted CR 45 regarding subpoenas. See WAC 284-02-070(e). The presiding officer has discretion to issue subpoenas and protective orders. RCW 34.05.446(1). The permissible scope of a subpoena duces tecum is limited by CR 26(b), which limits the scope of discovery to information that is "relevant to the subject matter involved in the pending action." A court will properly quash or refuse to issue a subpoena duces tecum that is overly broad or burdensome. See *Eugster v. City of Spokane*, 121 Wn. App. 799, 813-14, 91 P.3d 117 (2004).

Wells Fargo's involvement with the Scarborough Bond Program is not relevant to any issue in this proceeding. This proceeding involves two primary issues: (1) whether the sale and issuance of fully collateralized individual surety bonds, authorized by law and accepted by public entities, requires a certificate of authority issued by the OIC and (2) if so, what is the appropriate monetary penalty. The latter issue depends on sub-issues including whether the OIC has jurisdiction to regulate bonds accepted by the federal government under 48 C.F.R. § 28.203, *et seq.*, for work procured by the government. Wells Fargo acted only as a trustee and bore no risk on any Scarborough bonds. Wells Fargo's role is limited to holding the security interests granted by Scarborough in specific assets and to foreclose on those interests in the event of a default by Scarborough. No default has been declared. While the

RESPONDENT SCARBOROUGH'S
OPPOSITION TO REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK N.W., N.A. - 6

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

ITRs and agreements executed by Wells Fargo relating to the Scarborough Bond Program may be relevant for discovery purposes, Scarborough has produced those documents, making it unnecessary to burden Wells Fargo with producing those same documents.


Scarborough further opposes the proposed subpoena duces tecum because it encompasses confidential communications between him and his legal representatives and those of Wells Fargo. "The 'common interest' doctrine provides that when multiple parties share confidential communications pertaining to their common claim or defense, the communications remain privileged as to those outside their group." *Sanders v. State*, 169 Wn.2d 827, 853, 240 P.2d 120 (2010). Confidential communications between Scarborough and Wells Fargo or their legal representatives concerning their common interests as co-defendants in the Clarkston-Skyline litigation fall within the common-interest doctrine and are thus protected from discovery.

IV. CONCLUSION

The presiding officer should decline to issue the proposed subpoena to Wells Fargo because it seeks irrelevant documents and communications protected by the common-interest doctrine.

DATED this 14th day of November, 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
OPPOSITION TO REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK N.W., N.A. - 7

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215


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 November 14, 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 14th day of November, 2013.



Christine Williams, Legal Assistant

RESPONDENT SCARBOROUGH'S
OPPOSITION TO REQUEST TO ISSUE
SUBPOENA DUCES TECUM TO
WELLS FARGO BANK N.W., N.A. – 8

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

November 27, 2013 declaration of Alan Michael Singer

Exhibit E

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In re the Matter of

NO. 13-0084

EDMUND C. SCARBOROUGH and
WALTER W. WOLF,

Respondents.

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF THE
INSURANCE COMMISSIONER

TO: Office of the Insurance Commissioner

AND TO: Alan M. Singer, Staff Attorney, Office of the Insurance Commissioner

INTERROGATORIES

In accordance with Rule 33 of the Civil Rules for Superior Court for the State of Washington, please answer the following interrogatories separately and fully, under oath, within thirty (30) days of the date of service of these interrogatories upon you. These interrogatories are deemed continuing in nature and you are requested to supplement your answers to these interrogatories as additional information is acquired by you.

REQUESTS FOR PRODUCTION

Respondent Edmund C. Scarborough hereby requests, pursuant to CR 34, that the Office of the Insurance Commissioner produce and permit Respondent to inspect and copy any document referred to in these responses thereto at the offices of Carney Badley Spellman, P.S., 701 Fifth Avenue, Suite 3600, Seattle, Washington 98104, within thirty (30) days of the date of service of this demand, or at such other time and place as is agreed upon by counsel.

DEFINITIONS

1. "Document" is used in the broadest possible sense and refers, without limitation, to the originals (or any copies when originals are not available), unless otherwise stated, and any non-identical copies (whether different from the originals because of notes made on such copies

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 1

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

or otherwise) of any written, printed, typed, photostatic, photographed, recorded or otherwise reproduced communication or representation of every kind and description, whether comprised of letters, words, numbers, pictures, sounds or symbols, or any combination thereof, or inscribed by hand or by mechanical, electronic, magnetic, microfilmed, photographic or other means, as well as phonic (such as tape recordings) or visual reproductions of communications, oral statements, conversations or events, and including, but not limited to, correspondence, notes, minutes, records, messages and internal memoranda, e-mail messages, diaries, reports, compilations, studies, summaries, analyses, tables and tabulations, federal, state, local, and regional publications, newspapers, newspaper clippings, wire service reports, books, periodicals, audio or video tapes, or publications of any kind, financial statements, working papers, tallies, maps, diagrams, charts, plans, pictures, computer stored or computer readable data, computer printouts, teletype messages and other communications, all other data compilations from which information or communications can be obtained, and any preliminary versions, drafts, or revisions of any of the foregoing. "Document" includes the file and folder tabs associated with each such aforesaid original and/or copy, all correspondence transmitting such document or explaining or commenting on the contents thereof, and all working or supporting papers.

2. "Person" or "persons" refers to any natural person or any entity other than a natural person, including but not limited to, sole proprietorships, partnerships, corporations, associations, joint ventures, co-ventures, and any other legally recognized entity of any description whatever, as well as all divisions, departments, affiliates, subsidiaries, or other sub-units of the following entities.

3. "Communication" refers to any transfer of information, ideas, opinions, or thoughts by any means, at any time or place, under any circumstances, and is not limited to transfers between persons, but includes other transfers, such as records and memoranda to file.

4. "Statement" refers to any oral, written, stenographic or recorded declaration of any kind or description.

5. "Refer" or "relate" means concerning, alluding to, responding to, in connection with, commenting on, in response to, about, regarding, announcing, explaining, discussing, showing, describing, studying, affecting, reflecting, analyzing, containing or constituting.

6. "Identify" when applied to a person, requires that you give the person's name, residence address, residence telephone, business or occupation, employer, business address and business telephone.

7. "Identify" when referring to an organization, means to give the legal name of the organization, any business or assumed name under which it does business, its principle place of business, and the office or offices of such entity which are involved in the transaction about which the Interrogatory or Request is seeking information.

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 2

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

8. "Identify" when used in reference to a document, requires that you describe the document (i.e., whether it is a letter, memorandum, contract, etc.) and gives its date, the name of the person or person whose signatures are affixed thereto or for whom signature lines were prepared if the document was unsigned, and a short statement of the documents contents, and also requires that you identify all persons known to you to have control or possession of such document or copies thereof.

9. The singular number and masculine gender shall include, and be applied as, the plural or the feminine or neuter, as the circumstances of the particular discovery request may make appropriate.

10. Whenever reference is made to a person or entity, it is to be understood to include any and all of such persons or entities, directors, officers, employees, attorneys (including inside or house counsel and outside or retained counsel), accountants, and other agents or representatives.

11. "Electronic media" means any magnetic or other storage media device used to record electronic data. Electronic media devices may include, but are not limited to, computer memories, hard disks, floppy disks, CD-ROM, removable media such as Bernoulli Boxes and their equivalent, magnetic tapes of all types, microfiche, punched cards, punched tape, computer chips, including, but not limited to EPROM, PROM, RAM and ROM, or on or in any other vehicle for digital data storage and/or transmittal.

12. "File fragment" means any electronic data file that exists as a subset of an original active file. A file fragment may be active or deleted. The cause of fragmentation can include, but is not limited to, the execution of ordinary file management routines such as the creation of new files over parts of previously deleted files, the creation of files on disks which do not have enough contiguous blocks to write the file from beginning to end, where the file has been split up between several sections of the disk (each piece a fragment). Other causes include manual intervention, electronic surges, and/or physical defects on electronic media.

13. "Network" means any hardware and/or software combination that connects two or more computers together and which allows the computers to share and/or transfer data between them. For the purposes of this definition, the connection between or among the microcomputers need not be either physical or direct, i.e., wireless networks, and sharing and/or transferring data via indirect routes utilizing modems and phone company facilities. In addition, there need not be a central file or data server nor a central network operating system in place, i.e., peer-to-peer networks and networks utilizing a mainframe host to facilitate data transfer.

14. "Rotation" means any plan, policy or scheme that involves the re-use of an electronic media device after it has been used for backup, archival or other electronic data storage purposes, particularly if such re-use results in the alteration and/or destruction of the electronic data residing on the device prior to its re-use.

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 3

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

15. "Support" means any help or assistance provided to a user of a computer by another individual, either in an official job capacity or not. Such help or assistance may take the form of, but is not limited to, answering questions, in person or via mechanical means, direct intervention, training, software troubleshooting, hardware troubleshooting, programming, systems consulting, maintenance, repair and/or user forums. Providers of support may be employees, contractors and/or other third-party providers.

NOTICE REGARDING DISCOVERY OF COMPUTER/ELECTRONIC DATA OR MEDIA AND PRESERVATION OF DOCUMENTS

Notice is given that these discovery requests, including future requests, include within their scope information and data which is stored or maintained by computer or electronic means. Such information and data and any paper documents and things must be preserved and protected for purposes of this litigation. You are instructed to comply with the following:

1. You should not initiate any procedures which would alter any active, deleted, or fragmented files. Such procedures may include, but are not limited to, storing (saving) newly created files to existing drives and diskettes, loading new software such as application programs, running data compression and disk defragmentation (optimization) routines, or the use of utility programs to permanently wipe files, disks or drives.
2. You should stop any rotation, alteration and/or destruction of electronic media that may result in the alteration or loss of any electronic data. Backup tapes and disks should be pulled from their rotation queues and be replaced with new tapes.
3. You should not alter and/or erase active, deleted files or file fragments on any electronic media that may have any relation to this suit.
4. You should not dispose of any electronic media storage devices replaced due to failure and/or upgrade that may contain electronic data having any relation to this suit.
5. You should not discard any paper documents or tangible things relevant to this action.

PRIVILEGE

If any document is withheld from production on the ground that its production is privileged due to the attorney-client privilege, work-product rule or other legally recognized standard preventing its disclosure to a requesting party, then state separately for each such document: (1) the legal basis on which you claim protections against producing; (2) the date of the document; (3) the nature of the document (e.g., letter); (4) the full name, job title and employer for each author of the document; (5) the full name, job title, and employer of each addressee and named recipient of the document; (6) the full name, job title, and employer of

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 4

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

each person who to your knowledge has seen the document; (7) the present location of the document; (8) the full name, job title, and employer of each person having custody of the document; and (9) in general, the substance of the document.

INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons with testimonial knowledge relevant to the OIC's claims and assertions in this matter.

ANSWER:

INTERROGATORY NO. 2: Identify each person (other than an expert witness) that the OIC plans to ask to testify or reserve the right to ask to testify on your behalf in this matter. For each, state the subject matter and a summary of the anticipated testimony.

ANSWER:

INTERROGATORY NO. 3: Does the OIC intend to call any expert witnesses at the time of the hearing? If so:

- a. State the name, current address, telephone number, education and professional background of each person whom you expect to call as an expert witness.
- b. State the subject matter on which the expert will testify.
- c. State the substance of the facts upon which the expert will testify.
- d. State the opinions to which the expert will testify.
- e. Summarize the grounds for each opinion each expert will give.

ANSWER:

INTERROGATORY NO. 4: Identify each document and any other item of physical evidence that the OIC reserves the right to offer into evidence in this matter.

ANSWER:

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 5

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

INTERROGATORY NO. 5: State all facts supporting the OIC's allegation that Respondent Scarborough's issuance of individual surety bonds or related activities posed a "risk of harm to the public."

ANSWER:

INTERROGATORY NO. 6: Does the OIC allege that Respondent Scarborough caused any actual harm to any member of the public? If so, state all facts supporting that allegation.

ANSWER:

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce all communications with and documents obtained from Wells Fargo Bank Northwest, N.A., its affiliates, employees, attorneys, or agents relating to this matter.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: Produce all communications with and documents obtained from the city of Clarkston, its employees, attorneys, or agents relating to this matter.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Produce all communications with and documents obtained from the Surety & Fidelity Association, its affiliates, employees, attorneys, or agents relating to this matter.

RESPONSE:

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 6

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

REQUEST FOR PRODUCTION NO. 4: Produce all communications with and documents obtained from Skyline Contractors, Inc., or its subcontractors or claimants relating to this matter.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: Produce all communications with and documents obtained from Respondent Walter W. Wolf or his attorneys or agents relating to this matter.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: Produce all communications with and documents obtained from the NAIC or any insurance regulator or government agency relating to this matter.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: Produce all documents supporting your answer to interrogatory no. 5.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: Produce all documents supporting your answer to interrogatory no. 6.

RESPONSE:

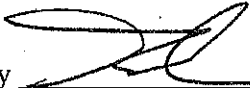
RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 7

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

DATED this 14th day of November, 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 EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 8

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

VERIFICATION

I, _____ (name), certify and declare under penalty of perjury under the laws of the State of Washington that I am the _____ (title) of _____, to whom these Discovery Requests are directed. I have read the above and foregoing Discovery Requests and the responses thereto, know the contents thereof and believe the same to be true.

DATED this ____ day of _____, 2013 at _____, Washington.

(Print Name)
Title _____
Company _____

Pursuant to CR 26(g), I certify that I have read the foregoing answers, responses, or objections, and to the best of my knowledge, information and belief, formed after a reasonable inquiry, such answers, responses or objections are (1) consistent with the Rules of Civil Procedure and warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (3) not unreasonably or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

DATED this ____ day of _____, 2013.

OFFICE OF THE INSURANCE
COMMISSIONER

By _____
Alan Michael Singer, WSBA No. 31302

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER -- 9

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215

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 November 14, 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:

<u>Attorney for OIC</u> Mr. Alan M. Singer - ORIGINAL Staff Attorney, Legal Affairs Division Office of the Insurance Commissioner P.O. Box 40255 Olympia, WA 98504-0255	<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
<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	

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

DATED this 14th day of November, 2013.



Christine Williams, Legal Assistant

RESPONDENT EDMUND C.
SCARBOROUGH'S FIRST DISCOVERY
REQUESTS TO THE OFFICE OF
INSURANCE COMMISSIONER - 10

CARNEY
BADLEY
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
T (206) 622-8020
F (206) 467-8215