

ALASKA WORKERS' COMPENSATION BOARD



P.O. Box 115512

Juneau, Alaska 99811-5512

IN THE MATTER OF THE PETITION)	
FOR A FINDING OF THE FAILURE TO)	
INSURE WORKERS' COMPENSATION)	FINAL DECISION AND ORDER
LIABILITY, AND ASSESSMENT)	
OF A CIVIL PENALTY AGAINST,)	AWCB Case No. 700003747
)	
CITY OF BREVIG MISSION,)	AWCB Decision No. 15-0120
)	
Respondent.)	Filed with AWCB Fairbanks, Alaska
)	on September 18, 2015
)	
)	
)	

The Division of Workers' Compensation's ("Division") August 9, 2011 and November 28, 2012 Petitions for Finding of Failure to Insure Workers' Compensation Liability and for Assessment of a Civil Penalty were heard in Fairbanks, Alaska on August 13, 2015. The hearing date was selected on July 7, 2015. Investigator Wayne Harger represented the Division and testified. The City Council of the City of Brevig Mission ("Employer"), comprised of Acting Mayor Warren Rock, Sr., Vice Mayor Ruth Ann Rock, member Grace Olanna, and member Frank Nayokpuk, appeared telephonically. Acting Mayor Rock and Leroy Seppilu testified telephonically. The record closed at the conclusion of the hearing, on August 13, 2015.

ISSUE

The Division contends Employer operated using employee labor without maintaining workers' compensation insurance, and a civil penalty should be assessed. Employer does not dispute these contentions, but requests mitigating factors be considered in determining an appropriate penalty amount.

In re: CITY OF BREVIG MISSION

Should Employer be assessed a civil penalty for failure to insure for purposes of workers' compensation liability, and if so, in what amount?

FINDINGS OF FACT

The following facts and factual conclusions are either undisputed or established by a preponderance of the evidence:

- 1) Employer is a municipal corporation, established in 1969 and operating since that time. (Division Hearing Brief, Ex. 17).
- 2) Employer provides essential public services to the community of Brevig Mission, including water and sewer services. (Rock).
- 3) The State of Alaska Division of Community and Regional Affairs identifies Sarah Henry as the current mayor for the City of Brevig Mission and Glenn Adam, Johnee Seetot and Ruth Ann Rock as council members. However, Sarah Henry resigned her position as Mayor in February 2015. In addition, council members continually change. Warren Rock, Sr. is currently the Acting Mayor for the City of Brevig Mission. (Division Hearing Brief, Ex. 17).
- 4) Currently, Ruth Ann Rock, Grace Olanna and Frank Nayokpuk serve on the city council, along with Acting Mayor Rock. (Rock).
- 5) Employer has had no prior failure to insure investigations. (Division Hearing Brief, Ex. 18).
- 6) On September 19, 2011, Robert Smith reported he sustained a back injury that same date while working for the City of Brevig Mission. On November 16, 2011, former Mayor Reggie Barr sent an e-mail to Investigator Wayne Harger acknowledging the injury sustained by Robert Smith. However, Employer denied the claim because it did not have workers' compensation insurance. Robert Smith did not file a workers' compensation claim. (Division Hearing Brief, Ex. 22, 23; Report of Occupational Injury or Illness, September 19, 2011).
- 7) On September 27, 2011, Aaron Tocktoo reported he sustained a hand injury while working for Employer. On November 16, 2011, former Mayor Reggie Barr sent an e-mail to Investigator Wayne Harger acknowledging the injury sustained by Aaron Tocktoo. However, Employer denied the claim because it did not have workers' compensation insurance. Aaron

Tocktoo did not file a workers' compensation claim. Thus the Division will not consider 8 AAC 45.176(d)(9) as an aggravating factor because the City of Brevig Mission has not been ordered to pay benefits. (Division Hearing Brief, Ex. 22, 24; Report of Occupational Injury or Illness, September 27, 2011).

8) On August 9, 2011, the Division filed a Petition for a finding of failure to insure and for assessment of a civil penalty against Employer. (Petition, August 9, 2011).

9) On August 15, 2011, Employer received a copy of the petition on Employer, along with a discovery demand and an affidavit of service via certified mail. (Division Hearing Brief, Ex. 4 - 7).

10) On September 28, 2011, Employer obtained workers' compensation insurance, 44 days after service of the Petition. (Division Hearing Brief, Ex. 2, 3, 7).

11) On November 27, 2012, the Division filed an Amended Petition, alleging a second lapse in coverage. (Amended Petition, November 27, 2012).

12) On December 7, 2012, Employer received a copy of the amended petition, along with a discovery demand and affidavit of service via certified mail. (Division Hearing Brief, Ex. 8 - 11).

13) On January 30, 2014, Employer responded to the Division's initial discovery demand, 868 days after it was due. (Division Hearing Brief, Ex. 5, 7, 20).

14) On December 29, 2014, Employer again obtained insurance. (Division Hearing Brief, Ex. 2, 8, 12, 25)

15) On February 5, 2015, Employer responded to the Division's second discovery demand, 759 days late. (Division Hearing Brief, Ex. 10, 12).

16) Employer failed to maintain workers' compensation insurance coverage for its employees from February 28, 2010 to September 28, 2011, a period of 577 calendar days. (*Id.*)

17) Employer again failed to maintain workers' compensation insurance coverage for its employees from October 26, 2012 to December 29, 2014, a period of 794 calendar days. The combined lapse periods total 1371 calendar days. (*Id.*)

18) Employer is currently insured through a policy effective July 1, 2015. The annual premium charged for this policy is \$17,573.00. (Division Hearing Brief, Ex. 25)

19) The pro-rated premium for the current policy is \$48.15 per day, which equates to \$66,013.65 Employer would have paid for the 1371 days it operated without insurance. (Division Hearing Brief, Ex. 19).

20) During the two lapse periods, employees worked a total of 40,383 hours, which equates to 5,048 employee work days, pursuant to 8 AAC 45.176(e)(2). (Division Hearing Brief, Ex. 19 - 21).

21) Acting Mayor Warren Rock credibly testified about his work for Employer and about Employer's current financial crisis. The city is "barely running," can "barely make payroll," and sometimes the payroll clerk must wait until deposits are made before she can issue employee paychecks. The city's heating costs and general cost of living has "skyrocketed" in recent years and the State of Alaska's allocation to the city is insufficient to compensate for the increase. The city's current sources of revenue are bingo proceeds, water and sewer plant proceeds and the State's revenue sharing program. The city owes nearly \$100,000.00 in back federal taxes to the IRS and continues to fall behind in paying its quarterly payroll taxes. Stated simply, the city is "getting deeper in the hole all the time." (Rock).

22) Leroy Seppilu, Local Government Specialist for the State of Alaska, credibly testified about his work assisting the City of Brevig Mission with management issues and training for city officials. Mr. Seppilu has worked on and off with the city for several years, attempting to resolve many of the city's financial difficulties. Seppilu testified the city has been "operating in the red" for several years and "frequently can't make payroll." The turnover in city officials is high. The city has had three different mayors since October 2014. While the officials are generally dedicated and hard-working, they often resign out of frustration as they are subjected to harassment by citizens upset with the lack of government services or angry employees whose hours have been cut in an attempt to improve the city's financial situation. Seppilu testified the city currently needs an additional 7,000 gallons of diesel fuel to heat city buildings through the winter. Seppilu is assisting the city in securing a loan to make a \$25,000.00 payment to the fuel company to ensure city buildings are heated through the winter. Seppilu has negotiated with the IRS over the years to minimize back federal taxes the city owes. However, the city has been unable to follow through on its payment plans with the IRS. Seppilu believes the city cannot afford the few current employees it has, and frequently struggles to make monthly payroll. Seppilu testified a conservative estimate of the city's total debt is \$700,000.00. When asked

what the city could reasonably afford per month toward a civil penalty, Seppilu testified “\$300 - \$500 a month is doable. They could live with it.” Seppilu is willing to continue to work with the city to “get out of its financial hole,” but he is “not hopeful.” (Seppilu).

23) Employer is currently insured for purposes of workers’ compensation. While the state has provided revenue to Employer for many years, a portion of which is allocated to obtain and maintain workers’ compensation insurance, Employer has not consistently used the funds for that purpose. However, the city council recently passed a resolution agreeing to withhold additional funds from its state revenue sharing allocation for its workers’ compensation insurance premiums. Mayor Rock intends to stay on as mayor and is committed to working with Mr. Seppilu to bring the city out of its current financial crisis. (Rock).

24) At the August 13, 2015 hearing, Employer stipulated to all facts as stated in the Division’s August 5, 2015 hearing brief. The only dispute between the parties is on the appropriate penalty amount. (Record).

PRINCIPLES OF LAW

Employers have a duty to insure their employees against work-related injury.

AS 23.30.001. Intent of the legislature and construction of chapter. It is the intent of the legislature that

(1) this chapter be interpreted ... to ensure ... quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to ... Employers....

The board may base its decision not only on direct testimony and other tangible evidence, but also on the board’s “experience, judgment, observations, unique or peculiar facts of the case, and inferences drawn from all of the above.” *Fairbanks North Star Borough v. Rogers & Babler*, 747 P.2d 528, 533-34 (Alaska 1987).

AS 2330.075. Employer’s liability to pay.

(a) An Employer under this chapter, unless exempted, shall either insure and keep insured for the Employer’s liability under this chapter in an insurance company or association ... or shall furnish the board satisfactory proof of the Employer’s financial ability to pay directly the compensation provided for....

(b) If an employer fails to insure and keep insured employees subject to this chapter or fails to obtain a certificate of self-insurance from the board, upon conviction the court shall impose a fine of \$10,000 and may impose a sentence of imprisonment for not more than one year.... If an employer Is a corporation, all persons who, at the time of the injury or death, had authority to insure the corporation or apply for a certificate of self-insurance, and the person actively in charge of the business of the corporation shall be subject to the penalties prescribed in this subsection and shall be personally, jointly, and severally liable together with the corporation for the payment of all compensation or other benefits in which the corporation is liable under this chapter if the corporation at that time Is not Insured or qualified as a self-insurer.

When an employer is subject to the requirement of AS 23.30.075 and fails to comply, the board may assess a civil penalty. Since the November 7, 2005 effective date of the 2005 amendments to the Alaska Workers' Compensation Act (Act), when an employer subject to the requirements of AS 23.30.075 fails to insure, the law grants the board discretion to assess a civil penalty of up to \$1,000.00 for each employee, for each day an employee is employed while the employer fails to insure. Alaska's penalty provision at AS 23.30.080(f) is one of the highest in the nation. *See e.g., In re: Alaska Native Brotherhood #2*, AWCB Decision No. 06-0113 (May 8, 2006). The statute's severity is a statement of policy that failure to insure for worker's compensation liability will not be tolerated in Alaska. The legislature has made its intentions clear: uninsured employers are subject to a severe penalty when employees are permitted to work without coverage for workers' compensation liability in place. *See* Committee Minutes from March 10, 2005, SB 130, before the Senate Labor and Commerce Committee, testimony of Director of Workers' Compensation Paul Lisanke, beginning at 1:47:55 PM.

AS 23.30.080 Employer's failure to insure.

...

(f) If an employer fails to insure or provide security as required by AS 23.30.075, the Division may petition the board to assess a civil penalty of up to \$1,000.00 for each employee for each day an employee is employed while the employer failed to insure or provide the security required by AS 23.30.075. The failure of an employer to file evidence of compliance as required by AS 23.30.085 creates a rebuttable presumption that the employer failed to insure or provide security as required by AS 23.30.075.

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In assessing an appropriate civil penalty, consideration is given to a number of factors to determine whether an uninsured employer's conduct, or the impact of that conduct, aggravates or mitigates its offense. A penalty is assessed based on the unique circumstances arising in each case. The primary goal of a penalty under AS 23.30.080(f) is not to be unreasonably punitive, but rather to bring the employer into compliance, deter future lapses, ensure the continued employment of the business' employees in a safe work environment, and to satisfy the community's interest in fairly penalizing the offender. *Alaska R & C Communications, LLC v. State of Alaska, Division of Workers' Compensation, Alaska Workers' Compensation Appeals Commission, AWCAC Decision No. 88 (September 16, 2008)*. According to the Commission, a penalty is not intended to destroy a business or cause the loss of employment. *Alaska R&C Communications*, at 27. The Commission noted:

The penalty is not intended to cause businesses to fail or employees to become unemployed. Such an outcome does not restore the employer to compliance, provide security for injured workers or continued employment, or deter future lapses, and it goes beyond the community's interest in condemnation of the offense. There are employers so grossly incompetent in business or so exploitive of their employees that there is little public interest in their continued viability; however, there is a strong public interest in preserving employment opportunities where possible. Thus, the board's evaluation of the employer's ability to pay a fine should be based on evidence of the particular employer's business and resources and its ability to pay the penalty assessed without adversely affecting the continued employment of its workers and its contribution to the economy. There is no presumption that an employer is able to pay a particular penalty simply because the penalty is within the range established by statute; therefore, since the Division seeks imposition of the penalty, it is the Division's burden to show that the penalty sought is payable by the employer.

Id., at 28-29.

AS 23.30.080(f) permits assessment of "a civil penalty of up to \$1,000 per day of employment per uninsured employee when an employer is uninsured." Based upon this specific statutory language and AS 23.30.135(a), discretion is granted to assess an appropriate civil penalty considering the specific facts of each case, and the assessment may be between zero and \$1,000.00 per day per uninsured employee.

Former decisions discuss a number of aggravating and mitigating factors considered in

determining appropriate civil penalties under AS 23.30.080(f). Those factors include: number of days of uninsured employee labor, the size of the business, the record of injuries of the employer, both in general and during the uninsured period, the extent of employer's compliance with the Act, the diligence exercised in remedying the failure to insure, the clarity of notice of insurance cancellation, employer's compliance with the investigation and remedial requirements, the risk of employer's workplace, the impact of the penalty on employer's ability to continue to conduct business, the impact of the penalty on the employees, the impact of the penalty on employer's community, whether employer acted in blatant disregard for the statutory requirements, whether employer properly accepted service of the Division's petition, whether employer violated a stop order, and credibility of employer's promises to correct its behavior. Based on these factors, a wide range of penalties have been found reasonable based on the specific circumstances of the violation. *See, e.g., In re: St. Lawrence Assisted Living Home, Inc.*, AWCB Decision No. 10-170 (October 12, 2010). In many cases, the penalty was twice the estimated premium the employer would have paid if insured. *See, e.g. In re: Swayback, Inc.* AWCB Decision No. 12-0050 (March 9, 2012). These factors are codified in 8 AAC 45.176, effective February 28, 2010.

The law requires employers to file evidence of compliance with the workers' compensation insurance requirements.

AS 23.30.085. Duty of employer to file evidence of compliance.

(a) An employer subject to this chapter, unless exempted, shall initially file evidence of compliance with the insurance provisions of this chapter with the Division, in the form prescribed by the director. The employer shall also give evidence of compliance within 10 days after the termination of the employer's insurance by expiration or cancellation. These requirements do not apply to an employer who has certification from the board of the employer's financial ability to pay compensation directly without insurance.

(b) If an employer fails, refuses, or neglects to comply with the provision of this section, the employer shall be subject to the penalties provided in AS 23.30.070....

AS 23.30.135. Procedure before the Board.

(a) In making an investigation or inquiry or conducting a hearing the board is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter. The board may make its

investigation or inquiry or conduct its hearing in the manner by which it may best ascertain the rights of the parties....

AS 23.30.395. Definitions.

In this chapter,

...

(20) “employer” means the state or its political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of this chapter and carried on in this state;

8 AAC 45.176. Failure to provide security: assessment of civil penalties.

(a) If the board finds an employer to have failed to provide security as required by AS 23.30.075, the employer is subject to a civil penalty under AS 23.30.080(f), determined as follows:

...

(4) if an employer is found to have no more than six aggravating factors, the employer will be assessed a civil penalty of no less than \$51 and no more than \$499 per uninsured employee workday; however, the civil penalty may not be less than two times the premium the employer would have paid had the employer complied with AS23.30.075 ...

(5) if an employer is found to have no fewer than seven and no more than 10 aggravating factors, the employer will be assessed a civil penalty of no less than \$500 and no more than \$999 per uninsured employee workday; however, the civil penalty may not be less than four times the premium the employer would have paid had the employer complied with AS 23.30.075; without a board hearing, if an employer agrees to a stipulation of facts and executes a confession of judgment without action, the employer will be given a 25 percent discount of the assessed civil penalty; however, the discounted amount may not be less than any civil penalty that would be assessed under (4) of this subsection;

...

(d) For the purposes of this section, “aggravating factors” include

(1) failure to obtain workers’ compensation insurance within 10 days after the Division’s notification of a lack of workers’ compensation insurance;

(2) failure to maintain workers’ compensation insurance after previous notification by the Division of a lack of coverage;

(3) a violation of AS 23.30.075 that exceeds 180 calendar days;

(4) previous violations of AS 23.30.075;

(5) issuance of a stop order by the board under AS 23.30.080(d), or the director under AS 23.30.080(e);

(6) violation of a stop order issued by the board under AS 23.30.080(d), or the director under AS 23.30.080(e);

(7) failure to comply with the Division's initial discovery demand within 30 days after the demand;

(8) failure to pay a penalty previously assessed by the board for violations of AS 23.30.075;

(9) failure to provide compensation or benefits payable under the Act to an uninsured injured employee;

(10) a history of injuries or deaths sustained by one or more employees while employer was in violation of AS 23.30.075;

(11) a history of injuries or deaths while the employer was insured under AS 23.30.075;

(12) failure to appear at a hearing before the board after receiving proper notice under AS 23.30.110;

(13) cancellation of a workers' compensation insurance policy due to the employer's failure to comply with the carrier's requests or procedures;

(14) lapses in business practice that would be used by a reasonably diligent business person, including

(A) ignoring certified mail;

(B) failure to properly supervise employees; and

(C) failure to gain a familiarity with laws affecting the use of employee labor;

(15) receipt of government funding of any form to obtain workers' compensation coverage under AS 23.30.075, and failure to provide that coverage.

(e) In this section,

(1) "premium" means the current amount charged to the employer by a carrier for coverage under AS 23.30.075;

(2) “uninsured employee workday” means the total hours of employee labor utilized by the employer while in violation of AS 23.30.076 divided by eight.

The burden of proving the factors the board must consider in assessing a penalty rests on the Division, because there is no presumption that a particular penalty within the range established by § .080(f) is appropriate. The Division has the burden of production and persuasion on the facts and circumstances to support imposition of a particular penalty, including factors supporting an enhanced penalty; the employer has the burden of establishing the facts and circumstances that may be considered in excuse or mitigation of a penalty established by § .080(f). *Alaska R & C Communications*, at 22-23.

ANALYSIS

Should Employer be assessed a civil penalty for failure to insure for purposes of workers’ compensation liability, and if so, in what amount?

Employer concedes it failed to provide workers’ compensation liability insurance from February 28, 2010 to September 28, 2011 and again from October 26, 2012 to December 29, 2014, violating AS 23.30.075. Employer acknowledges a penalty is appropriate, but requests mitigating factors be considered in assessing the penalty.

Nine of the aggravating factors outlined in 8 AAC 45.176(d) apply to Employer. First, Employer failed to obtain workers’ compensation insurance within 10 days after the Division’s notification of a lapse in coverage. 8 AAC 45.176(d)(1). The Division served Employer official notice of the first lapse on August 15, 2011; Employer did not obtain workers’ compensation insurance until September 28, 2011, 44 days later. The Division served Employer official notice of the second lapse on December 7, 2012; Employer did not obtain workers’ compensation insurance until December 29, 2014, 754 days later.

Second, Employer failed to maintain workers’ compensation insurance after a previous notification of lack of coverage. 8 AAC 45.176(d)(2). On August 15, 2011, the Division

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officially notified Employer did not have workers' compensation insurance coverage. Despite obtaining insurance in September 2011, Employer was again without insurance coverage in 2012.

Third, Employer violated AS 23.30.075 for a period exceeding 180 calendar days. 8 AAC 45.176(d)(3). Employer's first coverage lapse was 577 calendar days. Employer's second coverage lapse was 794 calendar days. As these are two distinct lapses, the two periods constitute two separate aggravating factors. Next, Employer failed to comply with the Division's initial discovery demand within 30 days after the demand. 8 AAC 45.176(d)(7). The Division served its initial discovery demand on Employer on August 9, 2011. Employer did not respond to the discovery demand until January 30, 2014, 868 days late. The Division served its second discovery demand (as to the second lapse) on Employer on November 29, 2012. Employer did not respond to the discovery request until February 5, 2015, 759 days late.

Next, there is a history of injuries sustained by one or more employees while the employer was in violation of AS 23.30.075. 8 AAC 45.176(d)(10). Two employees reported injuries during the periods Employer was uninsured.

A final applicable aggravating factor is the receipt of government funding to obtain workers' compensation coverage and the failure to provide that coverage. 8 AAC 45.176(d)(15). Employer receives state revenue sharing funds specifically allocated to maintain workers' compensation insurance, and nonetheless had two lapses in insurance coverage.

With nine applicable aggravating factors, 8 AAC 45.176(a)(5) establishes a penalty of no less than \$500.00 and no more than \$999.00 per uninsured employee workday. Here, employees worked 40,383 hours, which equates to 5,048 employee work days. The regulation therefore mandates a penalty ranging from \$2,524,000.00 ($\$500.00 \times 5,048$) to \$5,042,952.00 ($\$999 \times 5,048$).

Regardless of the number of uninsured employee workdays, 8 AAC 45.176(a)(5) establishes a minimum penalty of four times the premium the employer would have paid had it been insured.

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Employer's annual premium for its most recent policy was \$17,573.00, or a prorated premium for the current daily premium of \$48.15. At that rate, Employer would have paid \$66,013.65 for the 1371 days it operated without insurance. Four times that amount is \$264,054.60, which is the minimum penalty.

Though several aggravating factors apply here, the panel is mindful of the intent behind civil penalties for violations of AS 23.30.075. The primary goal of a penalty under AS 23.30.080(f) is not to be unreasonably punitive, but rather to bring Employer into compliance, deter future lapses, ensure the continued employment of the business' employees in a safe work environment, and to satisfy the community's interest in fairly penalizing the offender. *Alaska R & C Communications*. Further, a penalty is not intended to destroy a business or cause loss of employment. *Id.* Therefore, though the minimum penalty under 8 AAC 45.176(a)(5) (\$2,524,000.00, or \$500.00 x 5,048 employee workdays) will be ordered, all but \$14,400.00 will be suspended. Given Employer's current financial status, a lump sum payment may not be possible. Leroy Seppilu testified Employer can reasonably pay between \$300 and \$500 per month toward a penalty. The panel recognizes the important purpose Employer serves to the local community and the deep financial hardships Employer has experienced in recent years. Employer is encouraged to continue to work with Mr. Seppilu in preparing and implementing a plan to recover financially and ensure essential public services continue in Brevig Mission. Employer will be ordered to make 48 monthly payments of \$300.00 toward its civil penalty, beginning on November 1, 2015. If Employer fails to comply with this payment plan, the suspended portion will immediately become due.

CONCLUSIONS OF LAW

Employer violated AS 23.30.075 during two separate periods, totaling 1371 calendar days. Employer is assessed a penalty of \$2,524,000.00, of which \$2,506,000.00 will be suspended, leaving a total penalty due of \$14,400, made in 48 monthly payments of \$300.00.

ORDER

- 1) The Division's August 9, 2011 and November 28, 2012 Petitions for Finding of Failure to Insure and for Assessment of Penalty are GRANTED.

- 2) **Employer is assessed a penalty of \$2,524,000.00, \$2,506,000.00 of which is suspended. However, if Employer fails to fully comply with AS 23.30.075 or other provisions of the Act, the entire suspended amount shall immediately become due and the director may declare the entire assessed civil penalty in default and seek collection.**
- 3) A payment plan is ordered for the unsuspended portion of \$14,400.00.
- 4) **Employer is ordered to make monthly payments of \$300.00 for 48 months, beginning on November 1, 2015, until the full \$14,400.00 unsuspended penalty is paid in full.**
- 5) Employer is ordered to make all payments to the Alaska Department of Labor, Division of Workers' Compensation, P.O. Box 115512, Juneau, Alaska 99811-5512. The check should note AWCBC Case No. 700007347 and Decision No. 15-0120.
- 6) At any time Employer has employees, it shall maintain workers' compensation insurance coverage in accord with AS 23.30.075, and shall file evidence of compliance in accord with AS 23.30.085.
- 7) Pursuant to AS 23.30.060(a) and AS 23.30.075(b), Employer is directly liable for any and all benefits payable under the Act for compensable injuries to employees during the uninsured periods from February 19, 2010 to September 28, 2011 and October 26, 2012 to December 29, 2014.
- 8) The Division's Collection Officer is ordered to prepare a proposed Liability Discharge Order within 30 days of Employer's full, timely, civil penalty payment as set forth in this decision and order. The proposed order will be addressed in accord with 8 AAC 45.130.
- 9) The Division shall monitor Employer for compliance with AS 23.30.075 and AS 23.30.085, on a quarterly basis, for a period of no less than five years.

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Dated in Fairbanks, Alaska on September 18, 2015.

ALASKA WORKERS' COMPENSATION BOARD

Amanda Eklund, Designated Chair

Jacob Howdeshell, Member

Sara Lefebvre, Member

APPEAL PROCEDURES

This compensation order is a final decision and becomes effective when filed in the Board's office, unless it is appealed. Any party in interest may file an appeal with the Alaska Workers' Compensation Appeals Commission within 30 days of the date this decision is filed. All parties before the Board are parties to an appeal. If a request for reconsideration of this final decision is timely filed with the Board, any proceedings to appeal must be instituted within 30 days after the reconsideration decision is mailed to the parties or within 30 days after the date the reconsideration request is considered denied because the Board takes no action on reconsideration, whichever is earlier.

A party may appeal by filing with the Alaska Workers' Compensation Appeals Commission: (1) a signed notice of appeal specifying the board order appealed from; 2) a statement of the grounds for the appeal; and 3) proof of service of the notice and statement of grounds for appeal upon the Director of the Alaska Workers' Compensation Division and all parties. Any party may cross-appeal by filing with the Alaska Workers' Compensation Appeals Commission a signed notice of cross-appeal within 30 days after the board decision is filed or within 15 days after service of a notice of appeal, whichever is later. The notice of cross-appeal shall specify the board order appealed from and the grounds upon which the cross-appeal is taken. Whether appealing or cross-appealing, parties must meet all requirements of 8 AAC 57.070.

RECONSIDERATION

A party may ask the Board to reconsider this decision by filing a petition for reconsideration under AS 44.62.540 and in accordance with 8 AAC 45.050. The petition requesting reconsideration must be filed with the Board within 15 days after delivery or mailing of this decision.

MODIFICATION

Within one year after the rejection of a claim or within one year after the last payment of benefits under AS 23.30.180, 23.30.185, 23.30.190, 23.30.200 or 23.30.215 a party may ask the Board to

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modify this decision under AS 23.30.130 by filing a petition in accordance with 8 AAC 45.150 and 8 AAC 45.050.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Final Decision and Order in the matter of THE CITY OF BREVIG MISSION, Employer / Respondent; Case No. 700003747, dated and filed in the office of the Alaska Workers' Compensation Board in Fairbanks, Alaska, and served upon the parties by first-class U.S. Mail, postage prepaid, this 18th day of September, 2015.

Pamela Murray, Office Assistant I