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Department of Insurance
State of Idaho

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Attorneys for Idaho Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

EDMUND C. SCARBOROUGH,

Nonresident individual surety doing business
in Idaho without a Certificate of Authority,

Respondent.

Docket No. 18-2793-12

STIPULATION AND FINAL ORDER

STIPULATION

The Idaho Department of Insurance (hereinafter "Department") and Respondent EDMUND C. SCARBOROUGH (hereinafter "Scarborough") hereby agree and stipulate as follows:

1. The Director of the Department has jurisdiction over this matter pursuant to Title 41, Idaho Code.

2. On September 26, 2012, the Department filed and served a Verified Complaint and Notification of Rights (hereinafter "Verified Complaint") on Scarborough.

3. On December 6, 2012, Scarborough filed an Answer to the Verified Complaint.

4. The Verified Complaint alleges that Scarborough violated Idaho Code §§ 41-305 and 41-2603 by transacting surety insurance in the state of Idaho without a certificate of authority issued by the Director of the Department.

5. The parties hereto believe that this matter may be settled by a negotiated and stipulated settlement.

6. In consideration of the foregoing recitals and of the Director's dismissal of the above-entitled matter with prejudice:

a. Scarborough admits that, by issuing payment and performance bonds in connection with an Idaho Department of Transportation construction project as alleged in the Verified Complaint, he acted as a surety insurer and transacted surety insurance in the state of Idaho in violation of Idaho Code § 41-305.

b. Scarborough stipulates, agrees, and covenants that he shall not now nor in the future transact surety insurance or issue or deliver surety bonds as an unlicensed individual, as an individual surety, or in direct or indirect affiliation with any other unlicensed person or entity (i) in the state of Idaho, (ii) to or for Idaho residents, (iii) to or for any obligee or principal whose principal place of business is located in or who is a resident of the state of Idaho, regardless of where the project is located; or (iv) for public or private construction contracts located or to be performed in the state of

Idaho, including but not limited to federal construction projects governed by or subject to the Federal Acquisition Regulations System, 48 C.F.R. Title 48, or its subsequent equivalent.

- c. Scarborough stipulates, agrees, and covenants that he shall not now nor in the future represent to any other person or entity that he or any other individual surety may transact the business of insurance in the state of Idaho without being so licensed by the Department, having an Idaho certificate of authority, or otherwise being subject to regulation by the State of Idaho.
- d. The Director of the Department may enter a Final Order imposing an administrative penalty against Scarborough in the amount of Fifteen Thousand Dollars (\$15,000.00), due and payable immediately upon entry of said Final Order.
- e. In the event that any foreign corporate surety insurer with which Scarborough is affiliated (whether as a director, officer, key manager, beneficial owner or ultimate controlling person of the applicant or the applicant's ultimate controlling parent) submits to the Idaho Department of Insurance an application for a certificate of authority to transact surety insurance in the state of Idaho, the Department's consideration of that application shall not be prejudiced by (i) Scarborough's issuance, as an individual surety, of bid bonds, payment bonds or performance bonds in connection with public or private construction contracts with Idaho residents or performed in the state of Idaho, which issuance occurred on or prior to December 6, 2012; (ii) the Department's initiation of this

administrative proceeding, the allegations made in the Department's Verified Complaint, the Director's issuance of the Final Order contemplated by this Stipulation or the terms of such Final Order; (iii) Scarborough's issuance, as an individual surety, of bid bonds, payment bonds or performance bonds in connection with public or private construction contracts with residents of any other jurisdiction or performed in any other jurisdiction, which issuance occurred on or prior to December 6, 2012; or (iv) the initiation, prosecution or disposition (including, without limitation, the issuance of any order or the terms thereof) of any judicial, administrative, regulatory or disciplinary proceeding in any other jurisdiction in connection with Scarborough's issuance, as an individual surety, of bid bonds, payment bonds or performance bonds in connection with public or private construction contracts with residents of any other jurisdiction or performed in any other jurisdiction, which issuance occurred on or prior to December 6, 2012. This provision shall not apply to an application for a certificate of authority submitted by an alien insurer with which Scarborough is affiliated.

7. Before executing this Stipulation, Scarborough has had the opportunity to review this Stipulation with an attorney of his choice and to seek appropriate advice and counsel relating thereto.

8. The terms of this Stipulation are appropriate and proper under the circumstances referenced herein; and the parties hereto have entered into this Stipulation knowingly, voluntarily, and with full knowledge of any rights they may be waiving thereby.

9. Scarborough stipulates and agrees that the dismissal with prejudice of the above-entitled action (1) does not in any way negate his admission herein of violation of section 41-305, Idaho Code, (2) does not negate the continued effectiveness of the Final Order, and (3) does not impair the Department's right to exercise any of its remedies in the event Scarborough violates the Final Order.

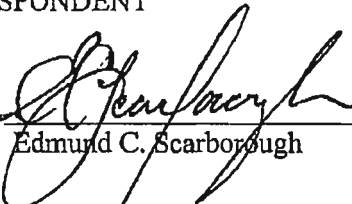
10. The parties hereto waive their right to notice and hearing at which they may be represented by counsel, present evidence, and examine witnesses. The parties hereto further waive their right of reconsideration, appeal, and other rights as set forth in title 67, chapter 52, Idaho Code, including the right to submit this matter for review by a court of competent jurisdiction.

11. The parties hereto have reviewed the proposed Final Order and agree as to its form and that said Final Order may be submitted to the Director of the Department for his review and signature.

IT IS SO AGREED.

DATED THIS 17th day of December, 2013.

RESPONDENT

By  _____
Edmund C. Scarborough

STATE OF Virginia)
County of Albemarle) ss.

On this 17th day of December, 2013, before me, the undersigned Notary Public, personally appeared Edmund C. Scarborough, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



mbrown
Notary Public
Residing at Virginia
My commission expires 1-31-17

STIPULATION AND FINAL ORDER APPROVED AS TO FORM:

By: Richard A. Riley
Richard A. Riley, Esq.
Hawley Troxell Ennis & Hawley LLP
Attorneys for Edmund C. Scarborough

FINAL ORDER

The parties hereto, namely the Idaho Department of Insurance and Edmund C. Scarborough, having entered into the foregoing Stipulation, the form of the order having been approved, and the Director, having reviewed the same, does hereby find that there is a factual basis for entry of a Final Order herein and does hereby conclude that Edmund C. Scarborough did violate Idaho law as stated in the Stipulation;

NOW, THEREFORE, based on the foregoing and in consideration of the premises, IT IS HEREBY ORDERED that the foregoing Stipulation is approved and is incorporated herein as if set forth in full and made a part hereof.

IT IS FURTHER ORDERED that Edmund C. Scarborough, shall not now nor in the future transact surety insurance or issue or deliver surety bonds as an unlicensed individual, as an individual surety, or in direct or indirect affiliation with any other unlicensed person or entity (i) in the state of Idaho, (ii) to or for Idaho residents, (iii) to or for any obligee or principal whose principal place of business is located in or who is a resident of the state of Idaho, regardless of where the project is located; or (iv) for public or private construction contracts located or to be performed in the state of Idaho, including but not limited to federal construction projects governed by or subject to the Federal Acquisition Regulations System, 48 C.F.R. Title 48, or its subsequent equivalent.

IT IS FURTHER ORDERED that Edmund C. Scarborough shall not now nor in the future represent to any other person or entity that he or any other individual surety may transact the business of insurance in the state of Idaho without being so licensed by the Department, having an Idaho certificate of authority, or otherwise being subject to regulation by the State of Idaho.

IT IS FURTHER ORDERED that, in the event that any foreign corporate surety insurer with which Scarborough is affiliated (whether as a director, officer, key manager, beneficial owner or ultimate controlling person of the applicant or the applicant's ultimate controlling parent) submits to the Idaho Department of Insurance an application for a certificate of authority to transact surety insurance in the state of Idaho, the Department's consideration of that application shall be accordance with the law and shall not be prejudiced by (i) Scarborough's issuance, as an individual surety, of bid bonds, payment bonds or performance bonds in connection with public or private construction contracts with Idaho residents or performed in the state of Idaho, which issuance occurred on or prior to December 6, 2012; (ii) the Department's initiation of this administrative proceeding, the allegations made in the Department's Verified Complaint, the Director's issuance of the Final Order contemplated by this Stipulation or the terms of such Final Order; (iii) Scarborough's issuance, as an individual surety, of bid bonds, payment bonds or performance bonds in connection with public or private construction contracts with residents of any other jurisdiction or performed in any other jurisdiction, which issuance occurred on or prior to December 6, 2012, or (iv) the initiation, prosecution or disposition (including, without limitation, the issuance of any order or the terms thereof) of any judicial, administrative, regulatory or disciplinary proceeding in any other jurisdiction in connection with Scarborough's issuance, as an individual surety, of bid bonds, payment bonds or performance bonds in connection with public or private construction contracts with residents of any other jurisdiction or performed in any other jurisdiction, which issuance occurred on or prior to December 6, 2012.. This provision shall not apply to an application for a certificate of authority submitted by an alien insurer with which Scarborough is affiliated.

IT IS FURTHER ORDERED that an administrative penalty in the amount of Fifteen Thousand Dollars (\$15,000.00) is imposed against Edmund C. Scarborough, which penalty is due and payable immediately.

IT IS FURTHER ORDERED that the dismissal with prejudice of the above-entitled action does not in any way negate Scarborough's admission that he violated section 41-305, Idaho Code; does not negate the continued effectiveness of this Final Order; and does not impair the Department's right to exercise any of its remedies in the event that Scarborough violates this Final Order.

IT IS FURTHER ORDERED that, upon payment in full of the administrative penalty imposed hereinabove, (i) the Stipulation and Final Order shall be the full and final resolution of any and all claims and issues arising under the Verified Complaint, and (ii) this Final Order shall operate to dismiss this administrative action with prejudice without further order or other action by the Director.

IT IS SO ORDERED.

DATED THIS 20TH day of December, 2013.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

By 
William W. Deal
Director

NOTIFICATION REGARDING REPORTABLE PROCEEDINGS

This is considered a reportable administrative proceeding. As such, it is a public record and is public information that may be disclosed to other states and reported to companies of which you are actively appointed. This information will be reported to the National Association of Insurance Commissioners (NAIC) and will appear in the Idaho Department of Insurance's online searchable database. Be aware that this proceeding must be disclosed on any license application and must be reported to any and all states in which you hold an insurance license.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of December, 2013, I caused to be served a true copy of the foregoing STIPULATION AND FINAL ORDER by the method indicated below, and addressed to each of the following:

Richard A. Riley
Hawley Troxell Ennis & Hawley LLP
P.O. Box 1617
Boise, Idaho 83701-1617

- first class mail
- certified mail
- hand delivery
- via facsimile



Teresa Jones