

**AFFIDAVIT IN SUPPORT OF REQUEST TO DISMISS**  
**LYNDON PROPERTY INSURANCE COMPANY**

**FILED**

In Re:

**JUN 13 2005**

Robert Flynn, et al., Petitioners

vs.

Montana State Fund, Respondents/Insurers and Liberty Northwest Insurance  
Corporation, Intervenor

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

\* \* \* \* \*

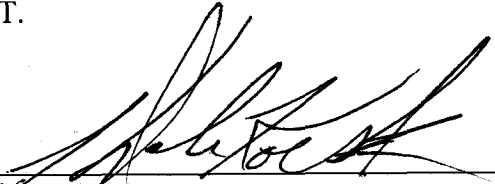
Comes the Affiant, J. Dale Koester, and after having been first duly sworn, states  
as follows:

1. I hold the position of Assistant Vice President/Surety Bond Manager of Lyndon Property Insurance Company (hereinafter, "Lyndon").
2. Lyndon is a property & casualty insurance company, chartered in 1978 in the State of Missouri.
3. Lyndon received its Certificate of Authority to conduct business in Montana on August 7, 1980.
4. Lyndon has never written Workers' Compensation Insurance in Montana.
5. Upon application from Stone Container Corporation, on June 19, 2002 Lyndon issued a Workers' Compensation Self Insurer's Bond in support of Stone Container Corporation's qualification as a Self Insurer of its workers' compensation risks, Compensation Plan No. 1, in Montana.
6. In issuing the aforementioned Workers' Compensation Self Insurer's Bond on behalf of Stone Container Corporation, Lyndon was functioning as Surety, but not as an Insurer.
7. Surety for a bond in support of a Self Insurer under Compensation Plan No. 1 does not meet the definition of an "Insurer" as set forth in Montana Code Annotated 2003, 39-71-116(14), therefore Lyndon cannot be construed as an Insurer by reason of its obligation of suretyship.

8. The aforementioned Workers' Compensation Self Insurer's Bond on behalf of Stone Container Corporation was replaced by an Irrevocable Letter of Credit on June 30, 2004, and the Bond was exonerated and released as of that date.

9. Lyndon has no further liability under the Workers' Compensation Self Insurer's Bond formerly issued on behalf of Stone Container Corporation, and Lyndon has never issued any other workers compensation self insurer's bonds in Montana.

FURTHER AFFIANT SAYETH NAUGHT.



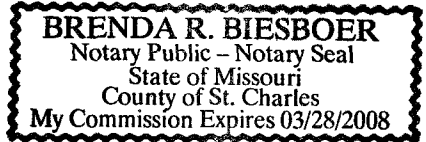
J. Dale Koester  
Assistant Vice President/Surety Bond Manager  
For Lyndon Property Insurance Company

STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

Subscribed and sworn to before me by J. Dale Koester this the 9th day of June, 2005.

My Commission expires: March 28, 2008

Brenda L. Biesboer  
NOTARY PUBLIC



**Asset Protection Division**

One Chesterfield Place  
14755 North Outer Forty Road, Suite 400  
St. Louis, MO 63017  
636-536-5600 / 800-950-6060



June 10, 2005

VIA CERTIFIED MAIL

The Honorable Mike McCarter  
Worker's Compensation Court  
P.O. Box 537  
Helena, MT 59624-0537

RE: Robert Flynn and Carl Miller v. Montana State Fund  
WCC No. 2003-0840

Dear Judge McCarter:

Lyndon Property Insurance Company ("Lyndon") has received a Summons in the above-referenced case. According to the Summons, a response is due on or before June 20, 2005. This letter and enclosed affidavit will serve as Lyndon's response to the Summons.

Please be advised that although Lyndon is authorized to write casualty insurance in Montana, it has never written workers' compensation insurance in Montana. Enclosed is an affidavit from Dale Koester, Assistant Vice President/Surety Bond Manager of Lyndon, outlining Lyndon's position. For the reasons stated in this letter and enclosed affidavit, we respectfully request that Lyndon be dismissed from the above-referenced lawsuits.

Should you need further information, please contact me at (800) 950-6060, ext. 5667. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Laura L. Foster".

Laura L. Foster, J.D.  
Assistant Vice President, Director of Licensing,  
Contracting and Litigation Support

LLF/maa

cc: Rex Palmer, Esq.