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FILED

JUN - 6 2005

Attorney for Banclnsure, Inc.

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR,)	WCC No. 2002-0676
)	
Petitioner,)	
)	
v.)	BANCINSURE, INC.'S
)	MOTION TO DISMISS
)	AND BRIEF IN SUPPORT
MONTANA STATE FUND,)	OF MOTION TO DISMISS
)	
Respondent/Insurer.)	

COMES NOW, Banclnsure, Inc., by and through its counsel of record, and hereby moves the Court to dismiss Banclnsure, Inc. from the above-captioned proceedings.

Banclnsure, Inc. was served with Summons and Notice of Attorney Fee Lien in the above-captioned matter. In the Summons and Notice of Attorney Fee Lien, it provides that there is an attorney fee lien on all additional pay benefits due claimants injured on or after July 1, 1987, and prior to December 22, 2004. The Summons and Notice of Attorney Fee Lien further requests that the insurer answer all defenses that Banclnsure, Inc. may have for Common Fund certification. As will be shown herein, Banclnsure, Inc. has had no claims for compensation filed against any of its insureds for the period of time set forth in the Summons and Notice of Attorney Fee Lien. Therefore, Banclnsure, Inc. respectfully requests that it be dismissed from the above-entitled proceedings.

Banclnsure, Inc. is an insurance company incorporated in the State of Oklahoma. (See ¶ 3 of Affidavit of James N. Cross, attached hereto as Exhibit 1.) Banclnsure, Inc. is an insurance company that insures banks and financial institutions. *Id.* at ¶ 4. Banclnsure, Inc. is licensed to sell insurance products in the State of Montana. *Id.* at ¶ 5. Although Banclnsure, Inc. offers workers' compensation coverage with its insurance

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products to its insureds in Montana, most of its insureds obtain workers' compensation coverage with other insurance providers. *Id.* at ¶ 6. Banclnsure, Inc. does not currently provide workers' compensation coverage for any entity in Montana, except for one branch of a South Dakota bank that has a branch office in Clancy, Montana. *Id.* at ¶ 7.

James N. Cross is the claims manager and vice president for Banclnsure, Inc. He has been employed in that position for six years. *Id.* at ¶ ¶ 1-2. James N. Cross is familiar with the claims history of Banclnsure, Inc.'s insureds in Montana who were covered by Banclnsure, Inc.'s products. *Id.* at ¶ 8. Banclnsure, Inc.'s records establish that for the period of July 1, 1987, through December 22, 2004, no workers' compensation claims were submitted for coverage with Banclnsure, Inc. Therefore, Banclnsure, Inc. does not have any claims that fall within the criteria established by the *Reesor* decision or the Summons and Notice of Attorney Fee Lien. *Id.* at ¶ ¶ 9-10.

As established by the Affidavit of James N. Cross, Banclnsure, Inc., although served with the Summons and Notice of Attorney Fee Lien, does not have any workers' compensation claims that were submitted during the relevant period as set forth in the *Reesor* Summons and Notice of Attorney Fee Lien.

Therefore, since Banclnsure, Inc. does not have any claims that fall within the criteria established by the *Reesor* decision or the Summons and Notice of Attorney Fee Lien, it respectfully requests that it be dismissed from the above-captioned matter.

Respectfully submitted this 3rd day of June, 2005.

BROWN LAW FIRM, P.C.

BY 

Michael P. Heringer
P.O. Box 849
Billings, MT 59103-0849
Attorney for Banclnsure, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was duly served on counsel of record by U.S. mail, postage prepaid, and addressed as follows this 5th day of June, 2005:

Thomas J. Murphy
Murphy Law Firm
P.O. Box 3226
Great Falls, MT 59403-3226

BY 
Michael P. Heringer

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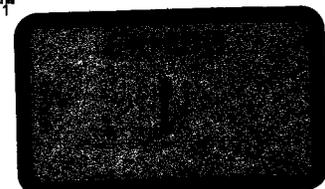
IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

DALE REESOR,)	WCC No. 2002-0676
)	
Petitioner,)	
)	AFFIDAVIT OF JAMES N. CROSS
v.)	
)	
MONTANA STATE FUND,)	
)	
Respondent/Insurer.)	

STATE OF OKLAHOMA)
) ss:
County of Oklahoma)

JAMES N. CROSS, being first duly sworn, testifies as follows:

- 1 He is claims manager and Vice President for BancInsure, Inc.
- 2 He has been employed in this position for six years.
- 3 BancInsure, Inc. is an insurance company incorporated in the State of Oklahoma.
- 4 BancInsure, Inc. is an insurance company that insures banks and financial institutions.



- 5 Banclnsure, Inc. is licensed to sell insurance products in the State of Montana.
- 6 Although Banclnsure, Inc. offers workers' compensation with its insurance products to its insureds in Montana, most of its insureds obtain workers' compensation coverage with other insurance providers.
- 7 Banclnsure, Inc. does not currently provide workers' compensation coverage for any entity in Montana except for one branch of a South Dakota bank that has a branch office in Clancy, Montana.
- 8 Affiant is familiar with the claim history of its insureds in Montana who were covered by Banclnsure, Inc.'s products.
- 9 Banclnsure, Inc.'s records establish that for the period of July 1, 1987, through December 22, 2004, no workers' compensation claims were submitted for coverage.
- 10 Accordingly, Banclnsure, Inc. does not have any claims that fall within the criteria established by the *Reesor* decision or the Summons and Notice of Attorney Fee Lien.
- 11 Affiant further sayeth not.

DATED this 2nd day of June, 2005.

By: _____

James N. Cross

SUBSCRIBED AND SWORN TO before me, a Notary Public for the State of Oklahoma, this 2nd day of June, 2005.



Marlene Patterson
 NOTARY PUBLIC FOR THE STATE OF OKLAHOMA
 Printed/Typed Name of Notary: Marlene Patterson
 Residing at: Oklahoma City, Oklahoma
 My commission expires: 2-12-06

