

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 2001-0300

FILED

CASSANDRA SCHMILL

Petitioner

JAN - 6 2006

vs.

OFFICE OF
WORKER'S COMPENSATION JUDGE
HELENA, MONTANA

LIBERTY NORTHWEST INSURANCE CORPORATION

Respondent/Insurer

MONTANA STATE FUND

Intervenor.

AFFIDAVIT

COMMONWEALTH OF MASSACHUSETTS

County of Worcester , ss.

I, Gerald Fels, being first duly sworn upon oath, depose and say:

I, Gerald Fels, am the President of American Commerce Insurance Company.

In my capacity as President of American Commerce Insurance Company, I am authorized to make the statements set forth in this affidavit on behalf of American Commerce Insurance Company and to bind American Commerce Insurance Company by these statements.

After a review of our records, I swear under oath that American Commerce Insurance Company should be dismissed from the above-entitled action for any or all of the following reasons (check any or all that apply):

- American Commerce Insurance Company has never written workers' compensation insurance in the state of Montana;
- (NAME OF INSURER OR SELF- INSURER) does not have any Montana claims;
- (NAME OF INSURER OR SELF- INSURER) has no claimants meeting the Court's criteria in this matter as set forth in the summons;
- (NAME OF INSURER OR SELF- INSURER) was or is in liquidation

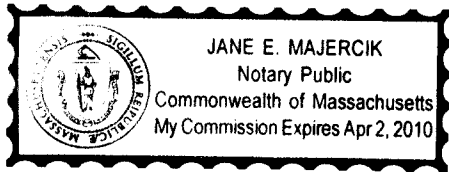
DOCKET ITEM NO. 129

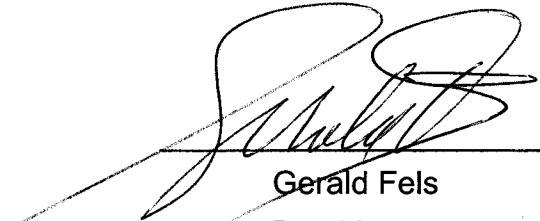
during the period in question set forth in the amended summons served upon me,

I understand that the Montana Workers' Compensation Court may allow a period of up to 90 days from the date of filing this affidavit within which Petitioner's counsel may conduct discovery and investigation for the limited purpose of proving or disproving the foregoing statement(s) made by me on behalf of American Commerce Insurance Company. After such 90 days, if no objection is lodged by the Petitioner's counsel, the Court will dismiss the insurer/self-insurer from this action based on the sworn statements made by me in this affidavit.

I declare under penalty of perjury that the foregoing is correct.

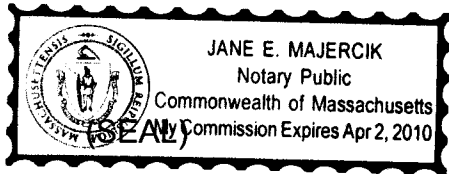
DATED this ___ day of January, 2006.





Gerald Fels
President

Signed and sworn to before me this 4th day of January, 2006,





Notary Public for the State of Massachusetts
My Commission Expires:

MASSACHUSETTS WITNESS OF SIGNATURE

Commonwealth of Massachusetts

(ss.)

COUNTY OF Worcester

On this 4th day of January, 2006, before me,
Day Month Year

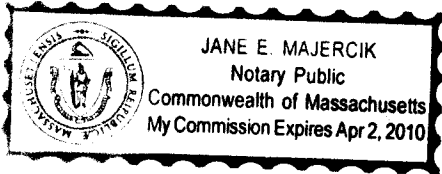
Jane E. Majercik, the undersigned Notary Public,
Name of Notary Public

personally appeared Gerald Fels,
Name of Signer

proved to me through satisfactory evidence of identification, which was/were

Personal Identity
Description of Evidence of Identity

to be the person whose name is signed on the preceding or attached document in my presence and acknowledged to me that he/she signed it voluntarily for its stated purpose.



Jane E. Majercik
Signature of Notary Public

Jane E. Majercik
Printed Name of Notary

My Commission Expires: April 2, 2010

Place Notary Seal and/or Any Stamp Above

OPTIONAL

Although the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____



American Commerce Insurance Company

Member of The Commerce Group, Inc.

Executive Offices

211 Main Street, Webster, Massachusetts 01570-0758

Toll Free (800) 922-8276

www.acilink.com

VIA OVERNIGHT DELIVERY

January 4, 2006

Workers' Compensation Court
State of Montana
P.O. Box 537
Helena, MT 59624-0537

RE: WCC No. 2001-0300
Schmill v. Liberty Northwest Insurance et. al.

Dear Madame or Sir:

Enclosed please find a certified affidavit requesting that American Commerce Insurance Company be dismissed from the above-referenced complaint as the company has never written workers' compensation insurance in the state of Montana. I hereby certify that a copy of the affidavit is being served contemporaneously on plaintiff's counsel via overnight mail.

If you have any questions regarding this matter, please feel free to contact me by calling (508) 949-4462 or by sending correspondence to me at the address noted above.

Very truly yours,

Louise M. McCarthy
Senior Counsel

Enclosures (1):

Certified affidavit of Gerald Fels, president, American Commerce Insurance Company