

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

BART CRABTREE D/B/A)	CASE NO. 136-2017
LODESTAR BUILDERS GROUP)	
)	
Petitioner,)	
vs.)	ENTRY OF DEFAULT AND FINAL
)	AGENCY ORDER
DEPARTMENT OF LABOR AND,)	
INDUSTRY, UNINSURED)	
EMPLOYERS' FUND,)	
)	
Respondent.)	

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I. INTRODUCTION

Pursuant to the Hearing Officer's December 29, 2016 Order on Motions, a hearing was held on January 12, 2017 to determine whether there was any error in the department's calculation of the penalty assessed against Bart Crabtree d/b/a Lodestar Builders Group. At the hearing, the department offered the sworn testimony of Sarah Elledge an auditor and investigator for the Department Uninsured Employers Fund program. Exhibit A (04) was entered into the evidentiary record.

II. FINDINGS OF FACT

1. Based on the UEF's motion for default and this hearing officer's subsequent order it has been established that Crabtree d/b/a Lodestar Builders Group was an uninsured employer and had employees during the time period between October 1, 2014 and March 31, 2016.

2. The UEF used code 5645 established by the Montana State Fund to calculate the wages in its penalty assessment. Code 5645 is for construction and sets an hourly rate of \$17.64 for fiscal year 2015 and \$16.71 for Fiscal year 2016.

3. The Wages were determined by using the gross wages of Kevin Templin for fiscal year 2015 dividing them by 100 and then multiplying by the \$17.64 rate. This number was then multiplied by 4 (employees) to come up with the \$7,204.88

Premium for that year. The same calculation was done for FY 2016 using the lower hourly rate of \$16.71 per hour to reach the \$6,825.03 premium.

4. The UEF tried at least five times to get Crabtree to fully respond to its audit. He did not, so the statutory penalty was assessed based on doubling the amount of premium for fiscal years 2015 and 2016 to reach the penalty amount ($\$7,204.88 + \$6,825.03 = \$14,029.91 \times 2 = \$28,059.82$). The \$200.00 penalty was assessed pursuant to Mont. Code Ann. 39-71-504(1)(c).

III. CONCLUSIONS OF LAW

1. The Department of Labor and Industry has jurisdiction to review the penalty determination in this matter. Mont. Code Ann. §§ 39-71-504 and 2401(2).

2. Bart Crabtree was an uninsured employer between October 1, 2014 and March 31, 2016 in violation of Mont. Code Ann. § 39-71-401.

3. The Uninsured Employers' Fund properly assessed a \$28,259.82 statutory penalty against Kilpatrick. Mont. Code Ann. § 39-71-504(1)(a) and Admin. R. Mont. 24.29.2831.

IV. ORDER

Based on Crabtree's default in this matter JUDGMENT is entered and Crabtree is ORDERED to pay to the Uninsured Employers' Fund a penalty in the amount of \$28,259.82.

DATED this 23rd day of January, 2017.

DEPARTMENT OF LABOR AND INDUSTRY

By: /s/ DAVID A. SCRIMM
David A. Scrimm, Chief ALJ
Office of Administrative Hearings

Notice: This Order is signed by the Hearing Officer of the Department of Labor and Industry under authority delegated by the Commissioner. Any party in interest may appeal this Order to the Workers' Compensation Court within thirty (30) days after the date of mailing of this Order as provided in Mont. Code Ann. § 39-71-2401(3) and Admin. R. Mont. 24.29.215 and 24.5.350. The Court's address is:

Workers Compensation Court
P.O. Box 537
Helena, MT 59624-0537
(406) 444-7794

Lodestar.eod&fao