

IN THE MATTER OF THE COMPLIANCE OF  
Blue Sky Towing and Recovery, Inc. Employer,

STATE OF OREGON, Acting by and through  
Debbie Lincoln, Acting Director, Department of  
Consumer and Business Services  
Plaintiff v.

Blue Sky Towing and Recovery, Inc., and  
Daniel R. Closser (Sr) and Deborah F. Closser  
Defendants.

STATE OF OREGON

County of Klamath

**AFFIDAVIT SUPPORTING ENTRY  
OF ORS 656.735 and 205.125  
MONEY JUDGMENT AND LIEN**

I, C. L. Hamm, being first duly sworn, say: I am the Collection Manager of the Business Administration Division for the plaintiff and custodian of plaintiff's Workers' Compensation Division Accounts Receivable records. Plaintiff's records show that "Proposed and Final Order Declaring Noncompliance and Assessing a Civil Penalty", Number 23591-AB was issued to defendants. A certified true copy of the Order is attached.

More than 20 days have elapsed since the defendant's last contact with the plaintiff.

Pursuant to ORS 656.735(5) and 82.010, there is now due and owing to the plaintiff by the defendants jointly and severally a civil penalty in the amount of \$60,500.00 plus interest thereon at the rate of nine percent per annum from May 24, 1998, until paid, plus the costs of recording the Order.

## MONEY JUDGMENT

**MONEY JUDGMENT**

1) Judgment Creditor: State of Oregon, acting by and through Debbie Lincoln, Acting Director, Department of Consumer and Business Services.

2) Judgment Creditor's Attorney: None

2) Judgment Creditor's Attorney: None.

3) Judgment Debtors: Blue Sky Towing and Recovery, Inc., and Daniel R. Closser (Sr) and Deborah F. Closser, individually, jointly and severally.

4) Principal Amount of Judgment: \$60,500.00

5) Prejudgment Simple Interest: None.

6) Attorney Fees: None.

7) Costs: \$25.00

8) Postjudgment Simple Interest at the rate of 9% per annum on the principal amount of the judgment which consists of from May 24, 1998.

C. L. Hartman

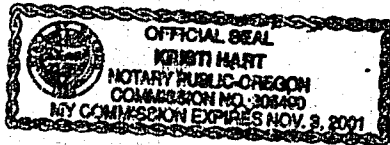
Date: \_\_\_\_\_

Collection Manager, Business Administration Division

Subscribed and sworn to before me this 16 day of June, 1998.

NOTARY PUBLIC FOR OREGON  
My Comm. Expires \_\_\_\_\_

My Commission Expires: 11/3/61



**RETURN TO:**

Department of Consumer & Business Services, Business Administration Division/NCE  
350 Winter St. NE Room 300, Salem, OR 97310

OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
EMPLOYER COMPLIANCE PROGRAM  
350 WINTER ST NE.  
SALEM, OREGON 97310  
(503) 947-7815

21117

In the Matter of the Noncompliance of )

BLUE SKY TOWING & RECOVERY INC )  
an Oregon Corporation )  
Employer. (WCD Employer No. 8164618) )

PROPOSED AND FINAL ORDER  
DECLARING NONCOMPLIANCE AND  
ASSESSING A CIVIL PENALTY

Order No. 23591-AB

To: Daniel R Closser, Registered Agent, BLUE SKY TOWING & RECOVERY INC

BASIS FOR ORDER

Every employer of one or more subject workers in Oregon is a subject employer (ORS 656.023).  
Every subject employer must provide workers' compensation coverage for its subject workers,  
as required by ORS 656.017 (ORS 656.052(1)).

Every subject employer must maintain assurance with the Department of Consumer and  
Business Services that it has provided coverage for its subject workers (ORS 656.017(1)). In  
order to do this, it must qualify as a self-insured employer or cause a guaranty contract from its  
insurer to be filed with the Department (ORS 656.407(1)).

If the Department has reason to believe an employer has failed to provide workers'  
compensation coverage for its subject workers, the Department of Consumer and Business  
Services shall serve the employer with an order declaring the employer to be noncomplying and  
assessing a civil penalty (ORS 656.052(2)).

A civil penalty of twice the unpaid premium, but not less than \$1,000, shall be assessed against  
any subject employer who does not provide workers' compensation coverage for its subject  
workers and maintain assurance of the coverage with the Department by qualifying as a  
self-insured employer or by causing a guaranty contract from its insurer to be filed with the  
Department (ORS 656.735(1), OAR 436-80-040(1)).

If an order declaring an employer to be noncomplying has become final and that employer  
continues to violate ORS 656.052(1), the Department shall serve the employer with another  
order declaring the employer to be noncomplying for the additional period and assessing a civil  
penalty in the amount of \$250 per day for each calendar day the violation has continued (ORS  
656.052(2), ORS 656.735(2), OAR 436-80-040(3)).

Corporate officers and directors are jointly and severally liable for payment of this civil penalty  
(ORS 656.735(4)).

If there is a compensable claim arising from an injury to a subject employee of a noncomplying  
employer, the noncomplying employer is liable for payment of all costs related to the claim and  
for an additional civil penalty (ORS 656.054(3), ORS 656.735(3)). Corporate officers and  
directors are jointly and severally liable for payment of the claim costs and the additional civil  
penalty (ORS 656.735(4)).

  
CERTIFIED TRUE COPY

### FINDINGS

1. The Department issued Order No. 23826-AB on June 18, 1997, declaring BLUE SKY TOWING & RECOVERY INC to be noncomplying for the period from May 16, 1996 to May 1, 1997. Order No. 23826-AB became final August 2, 1997.
2. BLUE SKY TOWING & RECOVERY INC was the employer of one or more subject workers in Oregon during the period from May 1, 1997 to December 29, 1997.
3. BLUE SKY TOWING & RECOVERY INC was not qualified as a self-insured employer with the Department during the period from May 1, 1997 to December 29, 1997.
4. BLUE SKY TOWING & RECOVERY INC did not cause a guaranty contract to be filed with the Department covering any part of the period from May 1, 1997 to December 29, 1997.

### CONCLUSION

BLUE SKY TOWING & RECOVERY INC continued to violate ORS 656.052(1) during the period from May 1, 1997 to December 29, 1997, by engaging as a subject employer without qualifying as a carrier-insured or self-insured employer as required by ORS 656.017.

### ORDER

The Department of Consumer and Business Services through the Compliance Section of its Workers' Compensation Division proposes to order that BLUE SKY TOWING & RECOVERY INC and its officers and directors, including but not limited to Daniel R Closser and Deborah F Closser, be declared a noncomplying employer during the period from May 1, 1997 to December 29, 1997, and to further order that BLUE SKY TOWING & RECOVERY INC pay a civil penalty in the amount of \$60,500.00 for continuing to violate ORS 656.052(1).

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### NOTICE

If you disagree with this Order, you may request a hearing. Your request for hearing must be in writing, delivered to the Employer Compliance Program at the address on the top of this document. Your request for hearing must state the reasons why you disagree with the Order and must be mailed or delivered to the Employer Compliance Program within 20 days after this Order is served on the corporation named as "employer" in the heading of this Order. If a request for hearing is not sent to the Employer Compliance Program within the time limit above, this Order will become final by operation of ORS 656.740(3) and will not be subject to review by any agency or court.

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If 150% of the workers' compensation premium that would have been due for the period stated above is less than the amount of the civil penalty stated above, we may agree to reduce the amount of the civil penalty due if, within 20 days of the date this Order is served, you have provided us ALL of the following:

1. A signed, written agreement, provided by this Department, that you are not contesting this Order; and
2. Satisfactory evidence that you now have workers' compensation coverage in effect OR satisfactory evidence that you are no longer a subject employer; and
3. Sufficient payroll information for us to calculate the amount of premium you would have paid had you had coverage in effect during the period stated above; and
4. An arrangement satisfactory to us for your payment of the reduced civil penalty.

If you do not understand this Order, you should contact your attorney at once or call the Employer Compliance Program at 947-7815.

Dated December 31, 1997.

DEPARTMENT OF CONSUMER & BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION

By *R. E. Gregory*  
R. E. Gregory, Compliance Section

004038-WCDOUTNC/SUP  
39210/0500

cc: BLUE SKY TOWING & RECOVERY INC file  
Daniel P. Closser, Officer  
Deborah F. Closser, Officer

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_  
of June \_\_\_\_\_ A.D., 19 98 at 10:09 o'clock A M., and duly recorded in Vol. M98  
of County Lien Docket \_\_\_\_\_ on Page 21116

FEE \$20.00

By *Kathleen Kras*  
Bernetha G. Letsch, County Clerk

WITHDRAWN June 19, 1998 (NUMBERING ERROR)

Document #60178