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STATE OF WASHINGTON
JEFFERSON COUNTY SUPERIOR COURT

DEPARTMENT OF LABOR AND
INDUSTRIES OF THE STATE OF
WASHINGTON,

Plaintiff,

v.

CAICOS CORP., a business; PORT OF
PORT TOWNSEND, a public entity; and
INSURANCE COMPANY OF THE WEST,
a surety,

Defendants.

NO. 10-2-00193-9

[PROPOSED] STIPULATION;
ORDER; JUDGMENT, AND
JUDGMENT SUMMARY

Date of hearing:
Judge/Department: Civil Calendar
Nature of motion: agreed judgment

Clerk's Action Required

JUDGMENT SUMMARY (RCW 4.64.030)

- | | |
|----------------------------------|---|
| 1. Judgment Creditor: | Department of Labor and Industries of the State of Washington |
| 2. Judgment Debtors: | Caicos Corporation, and Insurance Company of the West |
| 3. Principal Amount of Judgment: | \$64,097.74 (joint and several liability) |
| 4. Interest to Date of Judgment: | \$25,639.10 (joint and several liability) |
| 5. Attorney Fees: | \$19,520.00 (joint and several liability) |
| 6. Costs: | \$452.60 (joint and several liability) |
| 7. Other Recovery Amounts: | \$0 |

- 1 | 8. Principal Judgment Amount shall bear interest at 12% per annum.
- 2 | 9. Attorney Fees, Costs and Other Recovery Amounts shall bear Interest at 12% per annum.
- 3 | 10. Attorney for Judgment Creditor: Eric D. Peterson, Assistant Attorney General
4 | 800 Fifth Ave., Ste. 2000
5 | Seattle, WA 98104-3188
6 | (206) 464-7740
- 7 | 11. Attorney for Judgment Debtor: Jan D. Sokol (for Insurance Company of the West)
8 | Stewart Sokol & Gray, LLC
9 | 2300 S.W. First Ave., Ste. 200
10 | Portland, OR 97201-5047
11 | (503) 221-0699

12 | **I. STIPULATION**

13 | The parties stipulate as follows:

14 | 1. This matter was tried upon plaintiff Department of Labor and Industries' motion
15 | for summary judgment, heard by the Court on February 17, 2012, before the Hon. Court
16 | Commissioner Keith C. Harper. The plaintiff, the Department, appeared through its attorney of
17 | record, Robert M. McKenna, Attorney General, per Eric D. Peterson, Assistant Attorney
18 | General. The defendant Caicos Corporation appeared pro se, by and through David S. Berry,
19 | President of Caicos Corporation. The defendant Port of Port Townsend appeared by and
20 | through its attorney of record, Goodstein Law Group, PLLC, per attorney Ralph U. Klose. The
21 | defendant Insurance Company of the West appeared by and through its attorney of record,
22 | Stewart Sokol and Gray, LLC, per attorney Scott D. Schnuck. The Hon. Commissioner Harper
23 | issued a memorandum opinion on February 22, 2012, and an Order on Summary Judgment on
24 | April 3, 2012.

25 | 2. On April 11, 2012, the Department filed a motion for revision of the April 3,
26 | 2012 order. On April 13, 2012, Insurance Company of the West filed a motion for revision of
the April 3, 2012 order. On May 15, 2012, Caicos Corporation filed a motion for revision of

1 the April 3, 2012 order. The Hon. Judge Craddock D. Verser entered a memorandum opinion
2 and order on motions for revision on August 13, 2012.

3 3. By virtue of the April 3, 2012 and August 13, 2012 orders, summary judgment
4 is granted in favor of the Department against Caicos Corporation, and in favor of the
5 Department against Insurance Company of the West with respect to Performance/Payment
6 Bond No. 2203883. The orders also grant attorney's fees and costs to the Department with
7 respect to its claims against Caicos Corporation and Performance/Payment Bond No. 2203883
8 held by Insurance Company of the West. With respect to the Department's claims against
9 Retainage Bond No. 2006085 held by Insurance Company of the West, the Court's April 3,
10 2012 and August 13, 2012 orders determine that there is a material issue of fact to be decided
11 at trial. No party appealed the August 13, 2012 order in the time permitted by law.

12 4. In order to avoid the time and expense of trial and in consideration of the law
13 and facts, the parties hereby stipulate that an order and judgment should be entered in favor of
14 the Department against Retainage Bond No. 2006085 issued by Insurance Company of the
15 West, as surety, and Caicos Corporation, as principal, in the total amount of \$109,709.44,
16 calculated as follows: unpaid prevailing wages totaling \$64,097.74, interest on those wages
17 totaling \$25,639.10 (calculated at one percent per month for 40 months from the notice of
18 violation, at which point the claims were liquidated), reasonable attorney's fees of \$19,520.00,
19 and costs of \$452.60. The parties further stipulate that these same sums are jointly and
20 severally owed by Caicos Corporation.

21 5. That the claims asserted by the Department in this action against Caicos
22 Corporation for penalties be dismissed without prejudice. The parties stipulate that this
23 stipulation and order shall have no effect on the order of the Director of the Department, dated
24 February 4, 2011, with respect to the assessment of and order for payment of penalties by
25 Caicos Corporation.
26

1 6. That the claims asserted by the Department in this action against the Insurance
2 Company of the West Performance/Payment Bond No. 2203883 be dismissed with prejudice.

3 7. That any claims asserted in this matter against the Port of Port Townsend be
4 dismissed with prejudice.

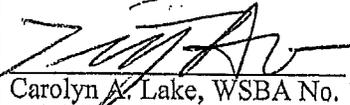
5 8. The parties, by their signatures below, stipulate that, pursuant to CR
6 52(a)(5)(A), no appeal will be taken from the judgment rendered in this action and therefore,
7 the Court need not enter findings of fact and conclusions of law.

8 So stipulated,

9
10 ROBERT W. FERGUSON
11 Attorney General

12 _____ Date:
13 Eric D. Peterson, WSBA No. 35555
14 Assistant Attorney General
15 For Department of Labor and Industries

16 _____ Date:
17 David S. Berry, President
18 Caicos Corp.

19  WSBA 24906
20 _____ Date: 5/10/13
21 Carolyn A. Lake, WSBA No. 13980
22 Ralph U. Klose, WSBA No. 14742
23 Attorneys for Port of Port Townsend

24 _____ Date:
25 Scott D. Schnuck, WSBA No. 42265
26 Jan D. Sokol, WSBA No. 30962
Attorneys for Insurance Company of the West

II. ORDER AND JUDGMENT

Based on the foregoing stipulations, IT IS ORDERED, ADJUDGED, and DECREED:

- 1. Plaintiff Department of Labor and Industries has judgment against Defendants Caicos Corporation and Insurance Company of the West (with respect to

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Retainage Bond No. 2206085), jointly and severally, in the total amount of \$109,709.44, calculated as follows: unpaid prevailing wages totaling \$64,097.74, interest on those wages totaling \$25,639.10 (calculated at one percent per month for 40 months from the notice of violation, at which point the claims were liquidated), reasonable attorney's fees of \$19,520.00, and costs of \$452.60. Defendants Caicos Corporation and/or Insurance Company of the West are hereby ordered to pay these respective sums.

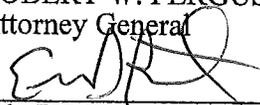
- 2. The Plaintiff is awarded interest from the date of entry of this judgment as provided by RCW 4.56.110.
- 3. That the claims by the Department against Caicos Corporation for payment of penalties be dismissed without prejudice. This stipulation and order shall have no effect on the order of the Director of the Department, dated February 4, 2011, with respect to the assessment of and order for payment of penalties by Caicos Corporation.
- 4. That the claims asserted by the Department in this action against the Insurance Company of the West Performance/Payment Bond No. 2203883 are dismissed with prejudice.
- 5. That any claims asserted by the Department in this action against the Port of Port Townsend are dismissed with prejudice.

DONE IN OPEN COURT this day of May, 2013.

JUDGE

1 Presented by:

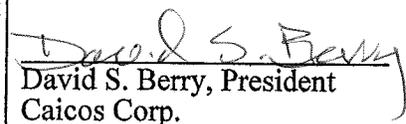
2 ROBERT W. FERGUSON
3 Attorney General



Date: 5/31/13

4 Eric D. Peterson, WSBA No. 35555
5 Assistant Attorney General
6 For Department of Labor and Industries

7 Copy received; approved as to form; and, notice of presentation waived:

8 
9 David S. Berry, President
10 Caicos Corp.

Date: MAY 6th, 2013

11
12 Carolyn A. Lake, WSBA No. 13980
13 Ralph U. Klose, WSBA No. 14742
14 Attorneys for Port of Port Townsend

Date:

15
16 Scott D. Schnuck, WSBA No. 42265
17 Jan D. Sokol, WSBA No. 30962
18 Attorneys for Insurance Company of the West

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Presented by:

ROBERT W. FERGUSON
Attorney General

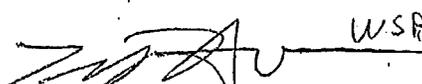
Date:

Eric D. Peterson, WSBA No. 35555
Assistant Attorney General
For Department of Labor and Industries

Copy received; approved as to form; and, notice of presentation waived:

Date:

David S. Berry, President
Caicos Corp.

 WSBA 29906

Date: 5/10/13

Carolyn A. Lake, WSBA No. 13980
Ralph U. Klose, WSBA No. 14742
Attorneys for Port of Port Townsend

Date:

Scott D. Schnuck, WSBA No. 42265
Jan D. Sokol, WSBA No. 30962
Attorneys for Insurance Company of the West

1 Presented by:

2 ROBERT W. FERGUSON
3 Attorney General

Date:

4 Eric D. Peterson, WSBA No. 35555
5 Assistant Attorney General
6 For Department of Labor and Industries

7 Copy received; approved as to form; and, notice of presentation waived:

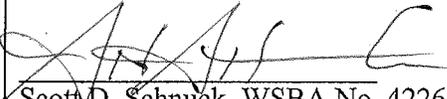
Date:

9 David S. Berry, President
10 Caicos Corp.

Date:

12 Carolyn A. Lake, WSBA No. 13980
13 Ralph U. Klose, WSBA No. 14742
14 Attorneys for Port of Port Townsend

Date: 5/21/13

15 
16 Scott D. Schnuck, WSBA No. 42265
17 Jan D. Sokol, WSBA No. 30962
18 Attorneys for Insurance Company of the West

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