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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x
COMMISSIONERS OF THE STATE INSURANCE
FUND,

Plaintiff,

-against-

HARRY'S NURSES REGISTRY, INC.,

Defendant.

Index No.
406555/07

-----x

199 Church Street
New York, New York

June 23, 2010
2:37 p.m.

EXAMINATION BEFORE TRIAL of the
Plaintiff, COMMISSIONERS OF THE STATE
INSURANCE FUND, by LAUREN HILL.

DL REPORTING SERVICES, INC.
192 Lexington Avenue
Suite 1004
New York, New York 10016
(212) 684-7437

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A P P E A R A N C E S:

JASNE & FLORIO, L.L.P
Of Counsel to Gregory J. Allen, Esq.
Attorney for Plaintiff
30 Glenn Street, Suite 103
White Plains, New York 10603

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BY: THOMAS S. BAILEY, ESQ.

S T I P U L A T I O N S

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2
3 It is hereby stipulated and agreed by and
4 between the attorneys for the respective parties
5 hereto that all rights provided by the C.P.L.R., and
6 Part 221 of the Uniform Rules for the Conduct of
7 Depositions, including the right to object to any
8 question, except as to form, or to move to strike
9 any testimony at this examination, are reserved,
10 and, in addition, the failure to object to any
11 question or to move to strike any testimony at this
12 examination shall not be a bar or waiver to doing so
13 at, and is reserved for, the trial of this action;

14 It is further stipulated and agreed by and
15 between counsel for the respective parties hereto
16 that this examination may be sworn to by the witness
17 being examined before a Notary Public other than the
18 Notary Public before whom this examination was
19 begun, but the failure to do so, or to return the
20 original of this examination to counsel, shall not
21 be deemed a waiver of the rights provided by Rules
22 3116 and 3117 of the C.P.L.R., and shall be
23 controlled thereby;

24 It is further stipulated and agreed by and
25 between counsel for the respective parties hereto

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that this examination may be utilized for all purposes as provided by the C.P.L.R.;

It is further stipulated and agreed by and between counsel for the respective parties hereto that the filing and certification of the original of this examination shall be and the same hereby are waived;

It is further stipulated and agreed by and between counsel for the respective parties hereto that a copy of the within examination shall be furnished to counsel representing the witness testifying without charge.

1
2 L A U R E N H I L L, having been
3 first duly sworn by a Notary
4 Public within and for the State of
5 New York, was examined and
6 testified under oath as follows:

7 EXAMINATION BY MR. BAILEY:

8 Q Please state your name for the
9 record.

10 A Lauren Hill.

11 Q Please state your address for the
12 record.

13 A 199 Church Street, New York, New
14 York 10007.

15 Q Ms. Hill, my name is Thomas
16 Bailey. I'm the attorney here for Harry's
17 Nurses Registry.

18 I'm going to be asking you a
19 series of questions. If you have any question
20 or don't understand or need it repeated, just
21 ask me.

22 The other thing I will ask is that
23 you respond orally, out loud, so that the
24 court reporter can record your answer.

25 A Okay.

1 Lauren Hill

2 A Yes.

3 Q Could you tell me what it is?

4 A This top one is the audit that was
5 done. This is the final audit period for
6 Harry's Nurses Registry.

7 Q "Final audit period," what does
8 that mean?

9 A It means that when a policy
10 cancels, once the policy has cancelled, our
11 auditors go in and review their financial
12 records and determine what the actual
13 remuneration should be.

14 Q If you could turn to the second
15 page.

16 A Okay.

17 Q Could you identify this for me,
18 please.

19 A This is payroll details. It gives
20 a breakdown of the payroll given for each
21 classification code.

22 Q What's the time period for this
23 payroll detail?

24 A 02/07. Okay. February 7th, 2007
25 to June 19th, 2007.

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Lauren Hill

Q And turning to the next page, what does this reflect?

A This basically is the same thing. It's a reconciliation. So the auditor tells us exactly what payroll is going to be used for billing purposes for each classification code.

Q So this relists the prior payroll --

A Yes.

Q -- from page two.

A Yes.

Q On the bottom line there, the adjustments for class, could you tell me what that is, please.

A Actually, I don't know what the adjustment is for. Basically, we only -- I only pay attention to what the final outcome is. So from what I can see here, I'm not really sure what the adjustment for that class is. It's just that that figure is being used as the payroll.

Q Which figure are you referring to?

A Oh, I'm sorry. On the last line,

1 Lauren Hill

2 reason why we're doing a rebill, which is the
3 paragraph section 92; and it gives the
4 classification codes that we're using the
5 payrolls for, and then the manual premium.

6 Q The 8884 there on the bottom
7 line --

8 A Yes.

9 Q -- the home health care
10 professional employees, that six million
11 dollar number, what does that reflect?

12 A That reflects the remuneration for
13 Harry's Nurses Registry for that particular
14 group of employees.

15 Q Now, is that for the previous year
16 or estimated for the foregoing year?

17 A On a rebill, it's usually -- it's
18 an estimate that's based on a prior -- an
19 estimate that's based on a prior audit.

20 Q Okay.

21 If you turn back to --

22 MR. FLORIO: Just for
23 clarification, I'm not sure the
24 question was answered. Is the question
25 you're asking was the bill applying to

1 Lauren Hill

2 which particular policy year? Is that
3 what the question was?

4 MR. BAILEY: No. I was asking
5 whether it was an estimate or if it was
6 taken from the previous year.

7 MR. FLORIO: Okay. I apologize.

8 MR. BAILEY: No worries.

9 Q If you turn back to page three for
10 a second, the adjustment for class that we
11 spoke about --

12 A Okay.

13 Q -- would that value, that negative
14 two million, be applied to the payroll
15 estimate of page six?

16 A No, because actually it -- it's
17 not that we would apply it. It's that this is
18 a projection. This is being billed
19 beforehand.

20 Let me make sure of the dates.
21 Yeah, this is being billed -- this renewal or
22 rebill is being billed before this comes
23 about. When this comes about, the audit,
24 we're starting from scratch. (Indicating.)

25 It's like we're just going in to

1 Lauren Hill

2 say, "Okay, what was the remuneration during
3 this period," and then we make a full
4 adjustment. So since this was based on a full
5 year renewal, this was based on the actual
6 time the policy was in effect.

7 Q Okay.

8 A So that the figures on here are
9 not really applied here. This would be
10 totally backed out of the account.

11 (Indicating.)

12 The renewal is totally backed out
13 of the account, and then we go forward with a
14 new billing.

15 Q I see.

16 A Okay.

17 Q Thank you.

18 If you would please turn to the
19 next page. Could you describe what page seven
20 is, please.

21 A Okay. Page seven is a
22 continuation of the previous page --

23 Q Okay.

24 A -- and basically it shows the
25 different charges that we're adding to the

1 Lauren Hill

2 manual premium. So you have at the top number
3 1 is the manual premium, which is the total
4 from the previous page, and then we add our
5 different expenses to it; and then it shows a
6 deposit that would be required for the policy
7 to go forward.

8 Q Now, item 7 --

9 A Okay.

10 Q -- says "rating board premium" and
11 "total terrorism premium." Disregarding the
12 total terrorism premium for now, what does the
13 rating board premium refer to?

14 A That's the basic premium plus the
15 expense constants, which is it's -- it's --
16 it's line 2 -- I'm sorry, line 3 plus line 4,
17 5, and 6.

18 Q And then item 8, the State Fund
19 differential, what is that?

20 A It's an additional charge that we
21 charge different policies.

22 Q And who establishes that?

23 A There are established underwriting
24 guidelines. We have certain types of
25 businesses that automatically are given a

1 Lauren Hill

2 differential.

3 Q Now, turning to item 10, what is
4 item 10?

5 A Item 10 is the assessment charge,
6 which is -- basically, it's the operating cost
7 for the worker's compensation board, and New
8 York State carriers are required to collect
9 to -- for the operation of the Worker's Comp
10 Board.

11 Q Okay, and what is the percentage
12 of the assessment?

13 A 18.6 percent.

14 Q How do you arrive at that figure?

15 A I'm not privy to how they arrive
16 at that figure because I -- that's State
17 based.

18 Q When you say "State based" --

19 A It's not arbitrary. The State
20 determines what the assessment charge will be,
21 New York State, so every New York State
22 worker's comp insurance carrier has to charge
23 for the assessment charge, and they determine
24 what the rate is every year. So it's not the
25 same every year.

1 Lauren Hill

2 Q So any company that carries
3 worker's compensation would be paying 18.6
4 percent?

5 A Correct.

6 Q Just for a second, back to number
7 8, what is the percentage of the State Fund
8 differential?

9 A 20 percent.

10 Q And how is that arrived at?

11 A Again, I'm not really privy to how
12 management determines what differential should
13 go on what risk. They make that decision, and
14 then we just are bound to follow it because
15 those are the guidelines that are in place.

16 Q If you turn to the next page,
17 which is page eight, is this also a
18 continuation?

19 A No, this is actually an
20 installment or -- yeah, an installment
21 billing.

22 Q What does line 1 reflect?

23 A This says that the earned premium
24 for this policy previously billed, we've
25 already billed a certain amount, and we're

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Lauren Hill

giving -- we're crediting it. We're giving a credit. Because this document for me is also connected to our statement of account, I wouldn't be able to tell you why we gave him credit without seeing the statement of account to see if there was --

MR. FLORIO: Plus note for the record that the top portion of the document is cut off.

THE WITNESS: Yeah.

A -- and I can say that we're giving him credit for something that we previously billed and we're taking it off.

MR. BAILEY: Off the record for a second.

(A brief discussion was held off the record.)

Q Let's go back to page nine, please. It looks like this. (Indicating.)

A Okay. That should be this one.

Q And what does this reflect, please?

A This should be the renewal for the -- the renewal or the declaration for the

1 Lauren Hill

2 2006 to 2007 year.

3 Q Does it reflect the payroll?

4 A Yes. It reflects the
5 classification codes and the payroll and then
6 the manual premium for each classification
7 code.

8 Q How is the manual premium arrived
9 at? How is that number arrived at?

10 A It's multiplied by a rate per
11 hundred. The payroll is multiplied by a rate
12 that's established by the rating board. It's
13 per hundred. For example, clerical is 36
14 cents per hundred, and that gives you the
15 manual premium.

16 Q And you said who establishes the
17 rate?

18 A The compensation insurance rating
19 board.

20 Q Thank you.

21 All right, turn to the next page.

22 A Okay.

23 Q What does this reflect?

24 A This is a continuation of the
25 previous page, and this is the manual premium

1 Lauren Hill

2 and all the additional charges for State Fund,
3 and then it comes down to the final balance
4 owed at that time.

5 Q Is the State Fund differential
6 reflected?

7 A Yes.

8 Q What is the amount?

9 A 25 percent.

10 Q If you could turn to page 13,
11 which is the reconciliation.

12 A Okay.

13 Q Could you for the record tell me
14 what this is, please.

15 A It's a reconciliation, and it
16 shows the classification codes and the
17 payrolls that the auditor found to be used for
18 premium purposes. It also shows you the
19 quarters -- the different quarters of the year
20 that they picked up various amounts of
21 remuneration or payroll.

22 Q And the bottom line, the
23 adjustment for class, is it fair to say that
24 only the auditor would know where that comes
25 in?

1 Lauren Hill

2 A They wouldn't -- yeah. The
3 auditor would know why it's put where it's put
4 in the way that it is because I can clearly
5 see that it's the same amount as the payroll
6 being used, but it's an accounting form so
7 they may -- there may be a particular reason
8 why they're putting it in that way.

9 Q Okay.

10 If you could turn to page 16,
11 please.

12 A Okay.

13 Q And what is this?

14 A This is a -- a rebill of the
15 declaration which shows we made revisions to
16 the State Insurance Fund mod. So on this
17 page, you see the payrolls for each
18 classification code and the manual premium.

19 Q I'm sorry. What was revised?

20 A The State Insurance Fund mod,
21 which is the State Fund differential in this
22 case.

23 Q That modification, would that be
24 reflected in the following page?

25 A Yes.

1 Lauren Hill

2 Q How so?

3 A Well, based on what I'm seeing
4 here is that we revised it from the 25
5 percent.

6 Q From the 25 percent to what?

7 A No. We revised it from whatever
8 the original was to --

9 Q I see.

10 A -- 25 percent.

11 Q I see.

12 Okay, and then turning to the next
13 page --

14 A Okay. This is also -- this is an
15 installment or it is the -- the transaction.
16 It may be the transaction that's showing
17 the -- we're rescinding the previous billing
18 because we take everything out and then put in
19 the new billing. So this is either an
20 installment payment or it's the rescind. It's
21 the taking the old billing out.

22 Q So line 1 would be reflecting the
23 old bill, which is based on whatever the
24 higher rate was, now refunding that payment
25 and assessing a lower payment based on the 20

1 Lauren Hill

2 percent?

3 Let me try that again. So line 1
4 reflects a credit for what was already paid --
5 No?

6 A No.

7 Q Okay.

8 MR. FLORIO: Can we go off the
9 record for a --

10 A It reflects a credit --

11 MR. FLORIO: -- second?

12 A -- of what was --

13 MR. BAILEY: Sure.

14 A It reflects a credit of what was
15 already billed.

16 Q Thank you. I was using the wrong
17 word. You're right, billed.

18 What would that have been based
19 on?

20 A That would have been based on the
21 declaration that is the initial billing for
22 that period, which would have been the initial
23 billing for this policy, so we're backing that
24 out.

25 Q Okay.

1 Lauren Hill

2 MR. FLORIO: Can we just go off
3 the record for a second.

4 (A brief discussion was held off the
5 record.)

6 Q Turning to the next page, 19, like
7 this -- (Indicating.)

8 A Okay.

9 Q -- could you explain what that
10 reflects?

11 A This is also a rebill that's
12 amending the State Fund mod, which is the
13 differential, and again it shows the payrolls
14 and the manual premium.

15 Q What's the date on this one?

16 A The date on this one is
17 12/21/2006.

18 Q I'm sorry. Can we go back to 18
19 for a second, the previous page.

20 A This one? (Indicating.)

21 Q Yes.

22 A Okay.

23 Q What are the dates associated with
24 this --

25 A Okay.

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Lauren Hill

Q -- document?

A This is for the period of 2007 to -- I mean February 7th, 2006 to 11/7/2006. This is for the renewal period that begins 2006, February 2006, and it would actually be for the whole year; but because of -- it's -- it's a billing so it's only giving you for a short period of time.

I'm -- I'm sorry. This is for the renewal that began 2006 that ends 2007 --

Q Okay.

A -- and this is actually showing you the period of billing from February 7th, 2006 to 11/7/2006.

Q Okay. Thank you.

Now, back to 19.

A This one? (Indicating.)

Q Yes.

A Okay.

Q The dates on this one reflect what?

A This is for February 7th, 2007 to February 7th, 2008. This is amending the renewal for that period of time.

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Lauren Hill

Q Why is it amending it?

A Because we're revising the State Insurance Fund mod or differential.

Q If you turn to the last page, page 22 --

A Okay.

Q -- could you tell me what this is?

A This is the latter part of the page that would come before it. It is the renewal for February 2007 to February 2008.

Q What is the State Fund differential reflected on this?

A 45 percent.

Q So would it be fair to say that the modification was a decrease during this time period from 45 percent to 20 percent?

A 20 percent, yes.

Q Who would make that modification?

A That would have been approved by a manager.

Q A manager where?

A Meaning here.

Q Okay.

A It would have been -- it would