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FILED

DEC - 1 2005

Attorneys for American West Insurance Company

OFFICE OF WORKERS' COMPENSATION JUDGE HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT

STATE OF MONTANA

ROBERT FLYNN and O Individually and on Beh Situated, Petitioners,)))) WCC No. 2000-0222
-VS-		
MONTANA STATE FUND,		AFFIDAVIT OF JOHN F. THELEN
Respondent/Insu	rer,	
and		
LIBERTY NORTHWES'	T INSURANCE	
Intervenor.		
*		
STATE OF IOWA) : ss.	
County of Polk)	

I, John F. Thelen, being first duly sworn, depose and sayeth as follows:

1. AFFIDAVIT OF JOHN THELEN

- That at one time I was the Secretary of American West Insurance Company.
- 2. That I am the Secretary of Tri-State Insurance Company of Minnesota and that I am authorized to make this Affidavit on behalf of Tri-State Insurance Company of Minnesota.
 - 3. That I have personal knowledge of the matters set forth in this Affidavit.
- 4. That American West Insurance Company was sold several years ago and a Purchase Agreement provided that Tri-State Insurance Company of Minnesota assumed all the business of American West Insurance Company, and is the successor-in-interest to American West Insurance Company for all insurance policies issued in the State of Montana prior to the sale of American West.
- 5. That only Tri-State Insurance Company of Minnesota can determine whether American West Insurance Company sold any worker's compensation insurance in the State of Montana that is within the class of claims addressed in this litigation, as described in the Summons and Amended Notice of Attorneys' Lien filed May 4, 2005.
- 6. That for the above referenced insurance policies, American West Insurance Company has not paid a worker's compensation claim in the State of Montana that is actually or potentially within the class of claims addressed in this litigation, as described in the Summons and Amended Notice of Attorneys' Lien filed May 4, 2005.

Further Affiant sayeth not.

2. <u>AFFIDAVIT OF JOHN THELEN</u>

DATED this 17th day of November, 2005.

Subscribed and sworn to before me this _____ day of November, 2005.

(signature)

Gregory Kendrick (print name)
Notary Public for the State of Iowa

My Commission Expires: