CLERK
SUPREME COURT OF VIRGINIA
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FEB 01 1982
RICHMOND, VIRGINIA

223 Va 641

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IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 810499

HARTFORD ACCIDENT & INDEMNITY COMPANY

Appellant

v.

FIDELITY & GUARANTY INSURANCE UNDERWRITERS, INCORPORATED

Appellee

JOINT APPENDIX

Harold M. Walker, Jr., Esq.
Mountfort, Furr, Dowler & Jackson
605 Park Avenue
P. O. Box 751
Falls Church, VA 22046

Counsel for Appellant

William M. Sokol, Esq.
Sokol, Ledbetter & Haley
P. O. Box 593
Fredericksburg, VA 22401

Counsel for Appellee

LAWYERS PRINTING COMPANY 7th & Franklin Bldg. Richmond, Virginia 23219 (804) 648-3664

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NOTICE OF APPEAL

TO: Mary W. Ragland, Secretary
Industrial Commission of Virginia
Post Office Box 1794
Richmond, Virginia 23214

Hartford Accident and Indemnity Company, Insurer, by counsel, hereby gives Notice of Appeal from the final decision of the Industrial Commission of Virginia, dated February 25, 1981, and hereby states, as required by Rule 5:19(b), as amended, of the Supreme Court of Virginia, that they specifically challenge the sufficiency of the evidence and the Commission's interpretation.

DATED THIS 4th day of March, 1981.

HARTFORD ACCIDENT & INDEMNITY COMPANY,
Insurer

MOUNTFORT, FURR, DOWLER & JACKSON
605 Park Avenue
Falls Church, Virginia 22046
Counsel for Insurer

By: Harold M. Walker Jr
Harold M. Walker, Jr.

C E R T I F I C A T E

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Appeal was mailed, postage prepaid this 4th day of March, 1981 to: Thomas O. Jones, Esq., 320 West Broad Street, Richmond, VA 23214 and also to: William M. Sokol, Esq., P. O. Box 593, Fredericksburg, VA 22401.

Harold M. Walker Jr
Harold M. Walker, Jr.

HE USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WORKMEN'S COMPENSATION
INDUSTRIAL COMMISSION OF VIRGINIA
P. O. BOX 1794 — RICHMOND, VIRGINIA 23214

e of .....
No. .....

EMPLOYER'S FIRST REPORT OF ACCIDENT
(Every question must be answered)

loyer

1. Name of Employer USCO Structures, Inc. Phone No. 804 447-3165
2. Address: No. and St. 718 E. Atlantic St. City South Hill State Virginia Zip 23970
3. Location, if different from mail address
4. Insured by: Name of Company Hartford Insurance) Smith-field Insurance Agencey, Inc.
5. Nature of business (or article manufactured) Modular manufacturing

6. (a) Location of plant or place where accident occurred Manassass, Va. (City or County) State if employer's premises
(b) If injured in a mine, did accident occur on surface, underground, shaft, drift or mill
7. (a) Date of Injury June 2 19 80 Day of week Monday Hour of day A. M. 1:00 appr P. M.
(b) Was injured paid in full for day he was injured? yes
8. Date incapacity began June 2, 19 80 A. M. P. M. 1:00 approximately
9. Was injured paid in full for day incapacity began?
10. When did you or foreman first know of accident? immediately
11. Name of foreman Bill Thomas - Fred Spencer

ed
n

12. Name of Injured Lander (First Name) Hendricks (Middle Name) (Last Name) (Social Security No.)
13. Address: No. and St. P.O. Box 322 City South Hill State Va. Zip 23970
14. Check (√) Married X, Single...., Widowed...., Widower...., Divorced...., Male X, Female...., No of Dependent Children 3
15. Age 35 Did you have on file employment certificate or permit? yes
16. (a) Occupation when injured carpenter (b) Was this his or her regular occupation? yes
In what department regularly employed? finish
17. (a) How long employed by you? 2-79; in present job? 2-79 (b) Piece or time worker time (c) Wages per hour $ 4.15
18. (a) No. hours worked per day 9 (b) Wages per day $ 39.43 (c) No. days worked per week 5-6
(d) Average weekly earnings $ 200.00 (e) Work week starts on Thrus. and ends on Wed. (f) Time shift started 8:00 A.M. P.M. (g) If board, lodging, fuel or other advantages furnished in addition to wages, give estimated value per day, week or month

19. Machine, tool or thing causing injury Modular home 20. Kind of power, (hand, foot, electrical, steam, etc.) natural force 21. Part of machine on which accident occurred house fell
22. (a) Was safety appliance or regulation provided? yes on the jack (b) Was it in use at time? yes
23. Was accident caused by injured's failure to use or observe safety appliance or regulation? NO
24. Describe fully how accident occurred, and state what employee was doing when injured
Employee was helping to move unit and the unit was jacked up and the unit fell. One jack went up faster then the other ones.
25. Name and address of witness W.L. Walker- USCO Structures, South Hill, Va. 23970

26. Nature of injury (describe exact location of amputation or fractures, right or left) multiple chest, lungs head and body injuries.
27. Probable length of disability maybe 15 weeks 28. Has injured returned to work? No
If so, date and hour At what wage $
29. At what occupation?
30. (a) Name and address of physician Dr. Howard Champion c/o Washington Hospital Center, Washingto
(b) Name and address of hospital Washington Hospital Center, 110 Irvin St. N.W. Washington, D.C 20010

31. Has injured died? If so, give date of death

of this report 6-3-80 Firm Name USCO Structures Inc
Signed by Midge Shipley Official Title Plant Secretary

No. 3—200M—8-3-76

2 002

Dot P.

ID-NO 0907744 IRS-NO 000000000 Creation date: 052279

~~NO XREFS~~

~~ICYPUP CAR: 10332 POL#:~~ ~~CODE:~~ ~~CLASS:~~

~~EFF-D:~~ ~~EXP-D:~~ ~~CAN-D~~ ~~REIN-D:~~

~~EMP#: 0907744~~ ~~RATE#: 000000000~~ ~~CR-DATE: 052279~~ ~~INDUSTRY: 068~~

Employer ~~EMP~~-NAME: U S C O STRUCTURES, INC ~~AMEND-DATE:~~

ST#: 000113 STR: E MAIN ST City ~~CY~~: BERRYVILLE ST: VA ZIP: 22611

CARRIER	POLICY#	~~CD~~	EFF-D	EXP-D	CAN-D	~~REIN-D~~	CLASS
~~FID & CAS~~	~~*WC6260482~~		~~062880~~	~~062881~~	~~000000~~	~~000000~~	~~2802~~
FID & GUAR.	2043950066890		022280	022281	000000	~~152533~~	2802
FID & GUAR.	2043950026713		022279	022280	000000	~~000000~~	2802

~~CROSS-REF NAMES~~	~~ST#~~	~~ST~~	~~CITY~~	~~ST EFF-D~~	~~EXP-D~~

Commission's record of coverage (Div. of Statistics)

COMMONWEALTH OF VIRGINIA

030

DEPARTMENT OF WORKMEN'S COMPENSATION
INDUSTRIAL COMMISSION OF VIRGINIA
P. O. BOX 1794 RICHMOND, VIRGINIA 23214

June 20, 1980

EMPLOYEE AND ADDRESS	INSURANCE CARRIER AND ADDRESS
Lander Hendricks P.O. Box 322 South Hill, Va. 23970	Fidelity & Guaranty Ins. Underwriter Inc. P.O. Box 27583 Richmond, Va. 23261

EMPLOYER USCO Structures Inc.

Accident Date June 2, 1980
Nature of Injury chest, lungs, head -body
I.C. FILE NO. 670-772
Carrier File No.

nc
M

Gentlemen: We have received report of an accidental injury captioned as above.

	WE HAVE:	PLEASE FILE:	
(copy attached)	x		Employer's First Report of Accident, Form No. 3
		x	Attending Physician's Report, Form No. 6
		x	Memorandum of Agreement, Form No. 4
			Supplemental Return to Work Report, Form No. 3a
			Application for Hearing
			Information

After first filing is made, do not file further forms or reports until file number is furnished you by the Claims Division.

Please report at once any error in the above.

4

Very truly yours,
INDUSTRIAL COMMISSION OF VIRGINIA

USE ABOVE RED I.C. FILE NUMBER ON ALL COMMUNICATIONS TO THE INDUSTRIAL COMMISSION

Falls Church Office
605 Park Avenue
P.O. Box 746
Falls Church, Virginia 22046
Telephone: (703) 534-6070

THE HARTFORD

June 18, 1980

USCO Structures Inc.
718 E. Atlantic St.
South Hill, VA 23970

Re:	Our File:	338 C 18526
	Insured:	USCO Structures
	Claimant:	Hendrichs, Lander
	D/A:	6-2-80

Gentlemen:

We acknowledge receipt of an Employers First Report of Injury to the above named employee which occurred in Manassas, Virginia on June 2, 1980.

Because this policy was under binder with The Hartford, as well as involved with two other carriers at the time the accident occurred, We must protect The Hartford in the event of any coverage conflicts.

We are, therefore, proceeding to handle this investigation under a full and complete reservation of all rights afforded us under the policy.

Very truly yours,

Mary Douglas Welch

Mary Douglas Welch
Claim Supervisor

cc: Industrial Commission
Smithfield Insurance Agency, Inc.
300 N. Washington St., Suite 301
Alexandria, VA 22314

MDW/gmf

5

UNITED STATES FIDELITY AND GUARANTY COMPANY
RICHMOND OFFICE
P.O. BOX 27583, RICHMOND, VA. 23261
TELEPHONE: 804/747-0300

ROBERT V. ROBERTSON
MANAGER

MICHAEL J. DONAGHY
ASST. MANAGER

JOHN T. WASSOM
SUPT. OF CLAIMS

Mr. C. J. James
Industrial Commission of Virginia
P.O. Box 1794
Richmond, VA 23214

July 1, 1980

Re: I.C.# 670 772
Employer USCO Structures Inc.
Employee Lander Hendricks
Accident Date 6/2/80
Our File # NO FILE IN OUR OFFICE

Dear Mr. James:

1. _____ We do not have a record of this matter in our office. We will follow with _____ for information.

2. _____ We did not receive the original of the attached medical report, but submit this signed copy for your records.

3. _____ On _____, 19___ we mailed _____ Agreement as to Compensation forms to the _____. To date they have not been returned. If these papers do not come in within the next few days, we will follow.

4. _____ Due to certain circumstances surrounding this claim, our investigation has not yet been completed. Just as soon as it has been completed, we will advise you of our intended disposition of the claim.

5. _____ Effective _____, 19____, compensation payments for temporary total disability were resumed--commenced--ended.

6. _____ We are still paying compensation for temporary total disability, and it is not yet known when the employee will be able to return to work.

7. _____ Temporary partial disability began _____, 19____, wage rate $_____ comp. rate $_____.

8. _____ We wrote to Dr./Hosp. _____ on _____ 19, _____, but have not yet received a reply.

9. X Special Remarks The policy has not been renewed with our company. We are therefore returning Employers 1st report.

Very truly yours,

Brenda Porch, Compensation Clerk
CLAIM DEPARTMENT
RBO CL 400

6.

006

Richmond 25 (9-77)

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF WORKMEN'S COMPENSATION
INDUSTRIAL COMMISSION OF VIRGINIA
P. O. BOX 1794 RICHMOND, VIRGINIA 23214

June 20, 1980

EMPLOYEE AND ADDRESS	INSURANCE CARRIER AND ADDRESS
Lander Hendricks P.O. Box 322 South Hill, Va. 23970	Fidelity & Guaranty Ins. Underwriters Inc. P.O. Box 27583 Richmond, Va. 23261
EMPLOYER USCO Structures Inc.	

Accident Date June 2, 1980
Nature of Injury chest, lungs, head -body
I.C. FILE NO. 670-772
Carrier File No.

nc
M

Gentlemen: We have received report of an accidental injury captioned as above.

	WE HAVE:	PLEASE FILE:	
(copy attached)	x		Employer's First Report of Accident, Form No. 3
		x	Attending Physician's Report, Form No. 6
		x	Memorandum of Agreement, Form No. 4
			Supplemental Return to Work Report, Form No. 3a
			Application for Hearing
			Information

JUN 23 1980
RICHMOND BRANCH

After first filing is made, do not file further forms or reports until file number is furnished you by the Claims Division.

Please report at once any error in the above.

Very truly yours,
INDUSTRIAL COMMISSION OF VIRGINIA

USE ABOVE RED I.C. FILE NUMBER ON ALL COMMUNICATIONS TO THE INDUSTRIAL COMMISSION

THE USE OF THIS FORM IS REQUI[illegible] UNDER THE PROVISIONS OF THE [illegible]ORKMEN'S COMPENSATION ACT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WORKMEN'S COMPENSATION
INDUSTRIAL COMMISSION OF VIRGINIA
P. O. BOX 1794 — RICHMOND, VIRGINIA 23214

[illegible]ase of .....
[illegible]ile No. .....

EMPLOYER'S FIRST REPORT OF ACCIDENT

(Every question must be answered)

Employer

1. Name of Employer USCO Structures, Inc. Phone No. [illegible]
2. Address: No. and St. 718 E. Atlantic St. City South Hill State [illegible] Zip [illegible]
3. Location, if different from mail address .....
4. Insured by: Name of Company Hartford Insurance Smith-field Insurance [illegible], Inc.
5. Nature of business (or article manufactured) Modular manufacturing

Time and Place

6. (a) Location of plant or place where accident occurred Manassass, Va. (City or County) State if employer's premises .....
   (b) If injured in a mine, did accident occur on surface, underground, shaft, drift or mill .....
7. (a) Date of Injury June 2 19 80 Day of week Monday Hour of day 1:00 appr A. M. P. M.
   (b) Was injured paid in full for day he was injured? yes
8. Date incapacity began June 2, 19 80 A. M. P. M. 1:00 approximately
9. Was injured paid in full for day incapacity began? .....
10. When did you or foreman first know of accident? immediately
11. Name of foreman Bill Thomas - Fred Spencer

Injured Person

12. Name of Injured Lander (First Name) (Middle Name) Hendricks (Last Name) (Social Security No.)
13. Address: No. and St. P.O. Box 322 City South Hill State Va. Zip 23970
14. Check (✓) Married X, Single...., Widowed...., Widower...., Divorced...., Male X, Female...., No of Dependent Children 3
15. Age 35 Did you have on file employment certificate or permit? yes
16. (a) Occupation when injured carpenter (b) Was this his or her regular occupation? yes
    In what department regularly employed? finish
17. (a) How long employed by you? 2-79; in present job? 2-79 (b) Piece or time worker time (c) Wages per hour $ 4.15
18. (a) No. hours worked per day 9 (b) Wages per day $ 39.45 (c) No. days worked per week 5-6
    (d) Average weekly earnings $ 200.00 (e) Work week starts on Thrus. and ends on Wed. (f) Time shift started 8:00 A.M. P.M. (g) If board, lodging, fuel or other advantages furnished in addition to wages, give estimated value per day, week or month

Cause of Injury

19. Machine, tool or thing causing injury Modular home 20. Kind of power, (hand, foot, electrical, steam, etc.) natural force 21. Part of machine on which accident occurred house fell
22. (a) Was safety appliance or regulation provided? yes on the jack (b) Was it in use at time? yes
23. Was accident caused by injured's failure to use or observe safety appliance or regulation? [illegible]
24. Describe fully how accident occurred, and state what employee was doing when injured
    Employee was helping to move unit and the unit was jacked up and the unit fell. One jack went up faster then the other ones.
25. Name and address of witness W.L. Walker- USCO Structures, South Hill, Va. [illegible]

Nature of Injury

26. Nature of injury (describe exact location of amputation or fractures, right or left) multiple chest, lungs head and body injuries.
27. Probable length of disability maybe 15 weeks 28. Has injured returned to work? [illegible]
    If so, date and hour ..... At what wage $ .....
29. At what occupation? .....
30. (a) Name and address of physician Dr. Howard Champion c/o Washington Hospital Center, Washington
    (b) Name and address of hospital Washington Hospital Center, 110 Irving [illegible] Washington, D.C. [illegible]

Fatal Cases

31. Has injured died? ..... If so, give date of death .....

Date of this report 6-3-80 Firm Name USCO Structures
Signed by Mutge Shipley Official Title [illegible]

[illegible] INSURANCE and GUARANTY CO. RECEIVED JUN 23 1980 RICHMOND BRANCH

FORM NO. 3-200M-8-3-76

8' 008

July 7, 1980

Mr. Bill Shmidheiser
Attorney at Law
90 North Main Street
Harrisonburg, Virginia 22801

THE HARTFORD INSURANCE GROUP
305 Piney Forest Road, P. O. Box 3771
Danville, Virginia 24541

338 C 18526
Hendricks vs
USCO Structures
D/A: 06/02/80

Dear Mr. Shmidheiser:

In accordance with our telephone conversation this date, you agreed to give the Hartford six days with which to remove the jacks from USCO's premises, have them examined, and returned.

We have employed the firm of Froehling and Robertson, 0015 Dombarton Road, Richmond, Virginia 23261, and are dealing direct with Mr. Theodore G. Owen, Engineer. Mr. Owen has assured us if the jacks are picked up on Tuesday, July 8, 1980, they can be examined and returned by Friday, July 11, 1980.

We appreciate your assistance in allowing an inspection of the jacks.

Very truly yours,

Sandie Holley

Sandie Holley
Claims Representative

SGH:km

cc: Theodore G. Owen, Engineer
Froehling and Robertson
3015 Dombarton Road
Richmond, Virginia 23261

cc: Mike Hauenstein, General Manager
USCO Structures
718 E. Atlantic Street
South Hill, Virginia 23970

See p. 36 of Record

THE HARTFORD INSURANCE GP.
605 PARK AVE.
P. O. BOX 746
FALLS CHURCH, VA. 22046
PHONE 534-6470

July 14, 1980

U.S.C.O. Structures Inc.
718 E. Atlantic St.
South Hill, VA 23970

Re: Our File: 338 C 18526
Hendricks vs. U.S.C.O. Structures Inc.
D/A: 6/2/80
I/C No: 670-772

Gentlemen:

Our investigation reveals that the insurance carrier of record on file with the Industrial Commission is U.S.F. & G. Accordingly, all reports etc. concerning this worker's compensation claim should be forwarded to U.S.F. & G.

Very truly yours,

Steve King
Manager

cc: Industrial Commission
Smithfield Insurance Agency
Lander Hendricks

RECEIVED
Industrial Commission
of Virginia
JUL 28 1980

July 17, 1980

File No: 670-772 Lander Hendricks vs USCO Structures Incorporated
Accident: 6-2-80

Fidelity & Guaranty Insurance Underwriters Incorporated
P. O. Box 27583
Richmond, Virginia 23261

Gentlemen:

It is the Commission's understanding that there is a question as to who the carrier is in the above styled case.

According to the Industrial Commission's records and the Rating Bureau's records, USF&G presently has a workmen's compensation policy in force effective February 22, 1980 to February 22, 1981. Neither the Industrial Commission or the Rating Bureau has received a cancellation notice of this policy. It is also our understanding that on the date of the accident in question, the Hartford Insurance Company had a binder in force.

In order to resolve the coverage question as well as to the question of compensability the Industrial Commission is putting this case on the hearing docket on its own motion against the employer with notice to both carriers.

In the meantime, it would be helpful if the carriers could arrive at some agreement whereby the claimant could be paid compensation until the matters at controversy could be resolved by the Hearing.

Very truly yours,

INDUSTRIAL COMMISSION OF VIRGINIA

B. D. Sadler, Jr.,
Claims Examiner

BDS:bb
cc: Hartford Accident & Indemnity Company
P. O. Box 746
Falls Church, Virginia 22046

cc: USCO Structures, Inc.
718 E. Atlantic Street
South Hill, Virginia 23970

cc: Mr. Lander Hendricks
P. O. Box 322
South Hill, Virginia 23970

10.

Binder No

INSURANCE BINDER

ord

THIS BINDER IS A TEMPORARY INSURANCE CONTRACT, SUBJECT TO THE CONDITIONS SHOWN ON THE REVERSE SIDE OF THIS FORM.

E AND ADDRESS OF AGENCY	COMPANY Hartford Insurance
nith-Field Insurance Agency, Inc. .O. Box 1269 lexandria, Virginia 22313	Effective 12:01 am May 26, 1980 Expires ☒ 12:01 am ☐ Noon June 2, 1980 ☐ This binder is issued to extend coverage in the above named company per expiring policy # (except as noted below)
E AND MAILING ADDRESS OF INSURED [illegible] 15 E. Atlantic Street outh Hills, Virginia 23970	Description of Operation/Vehicles/Property Pre-Fabricated/Modular Home Manufacturing

Type and Location of Property	Coverage/Perils/Forms	Amt of Insurance	Ded.	Coins. %
Blanket Building and Contents Bldg. 1 - 14 710 E. Atlantic Street South Hills, Virginia 23970	Fire, Extended Coverage, Vandalism & Malicious Mischief & Sprinkler Leakage Goods in Process Business Interruption Extra Expense	$441,353 350,000		

Type of Insurance	Coverage/Forms	Limits of Liability	Each Occurrence	Aggregate
☐ Scheduled Form ☐ Comprehensive Form ☒ Premises/Operations ☒ Products/Completed Operations ☐ Contractual ☒ Other (specify below) Broad Form CGL end't ☐ Med. Pay. $ Per Person $ Per Accident ☐ Personal Injury	☐ A ☐ B ☐ C	Bodily Injury Property Damage Bodily Injury & Property Damage Combined Personal Injury	$500,000 $100,000 $ $	$500,000 $100,000 $ $

		Limits of Liability	
☐ Liability ☒ Non-owned ☒ Hired ☐ Comprehensive-Deductible $ 50 ☐ Collision-Deductible $ 100 ☐ Medical Payments $5,000 ☐ Uninsured Motorist $ ☐ No Fault (specify): ☐ Other (specify):	RECEIVED JUN 16 1980 CAS. UNDR.	Bodily Injury (Each Person) Bodily Injury (Each Accident) Property Damage Bodily Injury & Property Damage Combined	$ $ $ $500,000

☐ WORKERS' COMPENSATION — Statutory Limits (specify states below) Virginia ☒ EMPLOYERS' LIABILITY — Limit $100,000

ECIAL CONDITIONS/OTHER COVERAGES

RECEIVED
JUN 19 1980
[illegible]

☐ MORTGAGEE ☐ LOSS PAYEE ☐ ADD'L INSURED

012

THIS BINDER IS A TEMPORARY INSURANCE CONTRACT SUBJECT TO THE CONDITIONS SHOWN ON THE REVERSE SIDE OF THIS FORM

NAME AND ADDRESS OF AGENCY	COMPANY
Smith-Field Insurance Agency, Inc. P. O. Box 1269 Alexandria, Virginia 22313	HARTFORD INSURANCE Effective 12:01 am June 2, 1980 Expires ☒ 12:01 am ☐ Noon June 26, 1980 ☐ This binder is issued to extend coverage in the above named company per expiring policy # (except as noted below)
NAME AND MAILING ADDRESS OF INSURED USCO 713 E. Atlantic Street South Hills, Virginia 23970	Description of Operation/Vehicles/Property Pre-Fabricated/Modular Home Manufacturing

Type and Location of Property	Coverage/Perils/Forms	Amt of Insurance	Ded.	Coins. %
Blanket Building and Contents Bldgs. 4, 7 & 9 Cnts. 4 & 7 Goods in Process 7 & 9	Fire, Extended Coverage, Vandalism & Malicious Mischief & Sprinkler Leakage	458,000 $448,000 $ 60,000 $250,000		

Type of Insurance	Coverage/Forms	Limits of Liability	Each Occurrence	Aggregate
☐ Scheduled Form ☒ Comprehensive Form ☒ Premises/Operations ☒ Products/Completed Operations ☐ Contractual ☒ Other (specify below) Broad Form CGL end't. ☐ Med. Pay. $ Per Person $ Per Accident ☐ Personal Injury		Bodily Injury Property Damage Bodily Injury & Property Damage Combined Personal Injury	$ 500,000 $ 100,000 $ $	$ 500,000 $ 100,000 $ $

		Limits of Liability	
☐ Liability ☒ Non-owned ☒ Hired		Bodily Injury (Each Person)	$
☒ Comprehensive-Deductible	$ 50	Bodily Injury (Each Accident)	$
☒ Collision-Deductible	$ 100		
☒ Medical Payments	$5,000	Property Damage	$
☒ Uninsured Motorist	$		
☐ No Fault (specify):		Bodily Injury & Property Damage Combined	$ 500,000
☐ Other (specify):			

UNDERWRITING DATA
Risk Grade ☐ A ☐ B ☐ C
U/A Points
Negotiated Com.
Lo.

☒ WORKERS' COMPENSATION — Statutory Limits (specify states below) Virginia ☒ EMPLOYERS' LIABILITY — Limit $ 100,000

SPECIAL CONDITIONS/OTHER COVERAGES

RECEIVED
JUN 3 Rec'd
PRO. UNDR.

NAME AND ADDRESS OF ☒ MORTGAGEE ☒ LOSS PAYEE ☐ ADD'L INSURED

1. & 2. 3.

LOAN NUMBER

Universal Leaf & Tobacco Co.
Attn: Bobby King
P. O. Box 25009
Richmond, Virginia 23260
So. Hill Industrial Development Corp

013

3. Citizens Bank, Inc.
Attn: John Evans
P. O. Box 30
South Hill, Virginia 23970

Signature of Authorized Representative Date

RD 75 (11-77)

A F F I D A V I T

STATE OF VIRGINIA

City of Leesburg, to-wit:

This day, in the City of Leesburg, Commonwealth of Virginia, Howard M. Armfield, Jr. and Dorothy K. Kidwell, Agents for United States Fidelity & Guaranty Company, personally appeared before me, Mary L. Bury, a notary public of and for the City aforesaid in the Commonwealth of Virginia, and made oath as follows:

1. That they are authorized representatives of United States Fidelity & Guaranty Company, and Howard M. Armfield, Jr. is a principal of the firm known as Armfield, Harrison & Thomas, Inc., located in Leesburg, Virginia, and Dorothy K. Kidwell is a representative of Armfield, Harrison & Thomas, Inc.

2. That through their insurance agency a policy of workmen's compensation insurance was issued by United States Fidelity & Guaranty Company under policy number 2-04-3950-066890, to USCO Structures, Inc., a Virginia corporation.

3. That the policy of workmen's compensation insurance would expire on or about February 22, 1980, and a renewal policy of workmen's compensation insurance was forwarded by the Baltimore Branch Office of United States Fidelity & Guaranty Company, located in Baltimore, Maryland, to Armfield, Harrison & Thomas, Inc., for the policy period February 22, 1980 through February 22, 1981.

4. That they were advised that USCO Structures, Inc. was in financial difficulty, and premiums due under the policy of workmen's compensation expiring in February of 1980, were delinquent.

5. That considering the foregoing circumstances, the renewal policy for the period February 22, 1980 through February 22, 1981, was retained by Armfield, Harrison & Thomas, Inc. and not delivered to USCO Structures, Inc., the same policy thereafter being returned to the Baltimore Office.

6. That the actions described in paragraph 5 reflect the intent of the undersigned persons that United States Fidelity and Guaranty Company would not issue a policy of workmen's compensation insurance to USCO Structures, Inc. for any period subsequent to February 22, 1980.

7. That a notice of cancellation (photocopy attached and made a part of this affidavit) was forwarded to USCO Structures, Inc. on or about April 1, 1980, for the purpose of emphasizing that there was no policy of workmen's compensation insurance in effect, and that no policy of workmen's compensation of United States Fidelity and Guaranty Company was in effect subsequent to February 22, 1980.

8. That by reason of the fact that there was not a renewal of the policy expiring on Feburary 22, 1980, no further action was taken by Armfield, Harrison & Thomas, Inc.

HOWARD M. ARMFIELD, JR.

Howard M. Armfield

DOROTHY K. KIDWELL

Dorothy K. Kidwell

Subscribed and sworn to before me this 20 day of October, 1980. In testimony whereof I have hereunto set my hand and seal the day, month and year aforesaid.

Mary L. Burg
Notary Public NOTARY SEAL

My commission expires: 5/11/82

☐ UNITED S ES FIDELITY AND GUARANTY COMPANY

☒ FIDELITY AND GUARANTY INSURANCE UNDERWRITERS, INC.

BALTIMORE, MARYLAND

NOTICE OF CANCELLATION

Date 4/1/80

You are hereby notified that Policy number stated below, issued to you by the Company (designated above by the letter X) is hereby cancelled in accordance with its conditi effective as of the cancellation date stated below.

OF POLICY	INSURED - NAME AND ADDRESS	Co.	B.O.	AGENCY	Prefix POLICY Numbe
rkmen's Compensation	USCO Structures, Inc. 113 East Main Street Berryville, Va. 22611	2	04	0134	2-04-3950-06685

BO: Baltimore, Md.

AGENT: Armfield, Harrison Thomas, Inc., P.O.Box 3 Leesburg, Va. 22075

The method of premium adjustment is indicated by (X)

☐ Check for unearned premium enclosed.

☐ Bill for earned premium enclosed.

☒ Premium will be adjusted in accordance with the terms and conditions of the Policy and notification of any amount due to or from you will be sent in due course.

ISSUE	POLICY	EXPIRATION	TERMINATION DATE
2/22/80		2/22/81	April 11, 1980

ARMFIELD, HARRISON & THOMAS, INC.

BY: Dorothy K. Kidwell

Authorized Representative

This is to certify that the above is a duplicate of a notice which was sent to the insured by the Department, and no certificate was obtained from the Post Office Department in connection with such mailing.

BY: Dorothy K. Kidwell

Ordinary Mail - POD Form 3817 ☐ Certified Mail - POD Form 3800 ☐ Certified Mail - POD Form 3800 and 3811 ☐ Registered Mail - POD Form 3811

T	ER 42	PR 41	DATE CREDITED	DATE COM. NOTFD.	LINE	L CASH RETURN PREM.	R. CASH RETURN PREM.	L REMAINING INSTALLS. PREM.	R. REMAINING INSTALLS. PREM.	CO
	☐	☒				.00	.00	.00	.00	
ON: Non-Payment						.00	.00	.00	.00	
						.00	.00	.00	.00	
CY PREMIUM ADJUSTMENT						.00	.00	.00	.00	
SEMI-ANNUALLY ☐ QUARTERLY ☐ MONTHLY						.00	.00	.00	.00	

10 Co 4-11-80

CASUALTY CODING—EXCEPT AUTOMOBILE PRIVATE PASSENGER

17	29-30	31-33	34-35	36-39	40	41-42	43-48	49-50	53-59	60-65	66-70	71-74	76-80	100-102
	STATE	TERR.	P.F.	CLASS		LIMITS BI ACC / PD ACC	EXPOSURE	MED UM COLL. P.F.	L PREMIUM	R. PREMIUM	L ORIG. PREM	R. ORIG. PREM	F.D. CODE	COMM

ER Notice

U.S. POSTAL SERVICE
CERTIFICATE OF MAILING

Received from:
Armfield, Harrison & Thomas
P. O. Box 324
Leesburg, Va. 22075

One piece of ordinary mail addressed to:
USCO STRUCTURES, INC.
113 East Main Street
Berryville, Va. 22611

MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE. — POSTMASTER

PS FORM 3817 MAY 1971

☆ GPO:1971—O-426-905

64.

670-772

MOUNTFORT, FURR, DOWLER & JACKSON
ATTORNEYS AT LAW
605 PARK AVENUE
FALLS CHURCH, VIRGINIA 22046

RICHARD W. MOUNTFORT
HENRY R. FURR
ROBERT W. DOWLER
DAVID B. JACKSON
HAROLD M. WALKER, JR.

532-4366
AREA CODE 703

November 10, 1980

Deputy Commissioner Jerry O. Talton
Industrial Commission of Virginia
P. O. Box 1794
Richmond, Virginia 23214

Re: Lander Hendricks vs. USCO Structures, Inc.
I.C. File NO: 670-772

Dear Commissioner Talton:

This letter is in response to Mr. Sokol's letter on behalf of United States Fidelity and Guaranty Company dated October 22, 1980. In that letter Mr. Sokol attempts to distinguish the cases and opinions which Hartford relied upon at the compensation hearing.

Mr. Sokol's letter asserts that the USF&G policy covering USCO Structures, Inc. expired on February 20, 1980. It was my impression from information given at the workmen's compensation hearing and from my telephone conversations with the clerk of the Industrial Commission that the Industrial Commission had on file notice of coverage extending beyond the February 20, 1980 date. If the commissioner's review of the commission's file reveals that at the date of the accident there was on file record of coverage with USF&G, it remains the contention of Hartford in this matter that effective cancellation by USF&G was both necessary and lacking in this case.

If the Industrial Commission's records reflect that coverage existed, the issue of intent of the carrier to issue a policy of coverage beyond February 20, 1980 does not control and does not relieve the carrier from the requirement of making effective cancellation to the commission.

Very truly yours,

Harold M. Walker, Jr.

Harold M. Walker, Jr.

HMW:swg

NOV 1980
RECEIVED
Industrial Commission
of Virginia

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DEC 12 1980

Opinion by TALTON
Deputy Commissioner

Hearing before Deputy Commissioner TALTON in Fairfax, Virginia on September 3, 1980.

This case is before us on motion of the Industrial Commission to determine the claimant's entitlement to workmen's compensation benefits as against the two defendant insurance carriers. The Commission finds a pre-injury average weekly wage of $166.60.

The evidence conclusively establishes the claimant's incapacity following a June 2, 1980 industrial accident wherein he sustained chest, head and abdomen injuries when a prefabricated house fell off its jacks and pinned him against the ground. There is no question but that Hartford Accident and Indemnity Company had a binder in effect insuring the liability of the employer for workmen's compensation benefits at the time of the June 2, 1980 accident. Although there was a contention that the binder was erroneously issued, a finding is made that the aforesaid insurer is liable for workmen's compensation benefits due to the June 2, 1980 industrial accident and an award shall enter in favor of the claimant.

Fidelity and Guaranty Insurance Underwriters Incorporated also issued a policy of workmen's compensation insurance covering the employer's liability as of the June 2, 1980 industrial accident. We further note that the required filings with regard to this policy were made with the Virginia Compensation Rating Burean and that notice of cancellation of the policy was not filed in writing with the Industrial Commission or the Bureau prior to the June 2, 1980 industrial accident. Although notice of cancellation due

to nonpayment of premimums was forwarded to the employer on or about April 1, 1980; in the absence of notice to the Industrial Commission the cancellation was ineffective. Stewardson v. Hicks, 55 OIC 326 (1973). It follows that United States Fidelity and Guaranty Company is also liable for the payment of workmen's compensation benefits to this claimant.

To the extent that Hartford Accident and Indemnity Company has previously made payment of workmen's compensation benefits to Mr. Hendricks, it shall be entitled to recover one half of said payments from Fidelity and Guaranty Insurance Underwirters Incorporated. (It would further appear appropriate for Hartford to continue to make payment of all future workmen's compensation benefits and then seek appropriate reimbursement from Fidelity and Guaranty.) The defendants are reminded of their liability for a 20 percent penalty should payment of benefits be more than two weeks in arrears notwithstanding their respective indemnification rights.

An award shall enter.

A W A R D

An award is hereby entered on behalf of Lander Hendricks against Fidelity and Guaranty Insurance Underwriters Incorporated and Hartford Accident and Indemnity Company, jointly and severally, at the rate of $111.07 per week beginning June 3, 1980 to continue during incapacity. From accrued compensation the sum of $500.00 shall be deducted and paid to Thomas O. Jones, Esquire, for legal services rendered to the employee.

Medical benefits are awarded for as long as necessary.

The case is ordered removed from the hearing docket.

Opinion by JOYNER,
Chairman

FEB 25 1981

REVIEW before the Full Commission at Richmond, Virginia, on February 2, 1981.

This claim is before the Full Commission for review of the opinion of December 12, 1980, finding that both Hartford Accident & Indemnity Company and Fidelity & Guaranty Insurance Underwriters, Inc. had policies in effect insuring the named employer for workmen's compensation purposes on the date on which the claimant suffered injury by industrial accident.

The record clearly establishes injury by industrial accident on June 2, 1980, and continuing disability.

The record regarding insurance coverage establishes that Fidelity & Guaranty, F & G, issued a policy of workmen's compensation insurance to the named employer initially for the period of February 22, 1979, through February 22, 1980. This policy was renewed for an additional one year period prior to the expiration of the initial policy. By notice dated April 1, 1980, F & G cancelled its policy of insurance for non-payment of premium. The employer received notice of such cancellation on April 3, 1980 (TR. 18). No notice of such cancellation was filed with the Industrial Commission. Section 65.1-105 of the Code of Virginia, 1950, as amended, provides in part that:

> ". . .No policy of insurance hereafter issued under the provisions of this Act. . .shall be cancelled by the insurer issuing such policy . . .except on thirty days' notice to the employer and the Industrial Commission, unless the employer has obtained other insurance and the Industrial Commission is notified of that fact by the insurer assuming the risk, or unless said cancellation is for nonpayment of premiums; then ten days' notice shall be given the employer and the Industrial Commission."

Upon receiving Notice of Cancellation of its insurance, a workmen's compensation insurance binder was obtained from the Reliance Insurance Company, which expired on May 26, 1980, without a policy being issued.

Hartford Accident and Indemnity Company (Hartford) then issued its binder to provide a policy of workmen's compensation insurance from May 26, 1980, until June 2, 1980. This binder was renewed and was in effect at the time the claimant suffered injury by industrial accident. Hartford neither notified the Virginia Rating Bureau nor the Industrial Commission of the issuance of either of these binders. Therefore, neither Hartford nor F & G had complied with the requirements of Section 65.1-105.

In considering the intent of the Legislature in enacting Section 65.1-105, we conclude that the purpose was to notify both the employer and the Industrial Commission at the same time of the issuance of or the cancellation of a policy of workmen's compensation insurance. Although the Industrial Commission was not properly notified of the cancellation of the insurance policy by F & G, it is clear that the employer was so notified and took appropriate steps to insure its risk as required by the Workmen's Compensation Act. Hartford then undertook to insure this risk, although it, likewise, did not notify the Industrial Commission.

The Full Commission, upon review, concludes and find that while the technical requirements of Section 65.1-105 had not been met by F & G in this case, that it had substantially complied with the provisions of that Section and that Hartford, in turn, had undertaken to insure this risk. If the employer had been uninsured at the time of this loss, F & G alone would be held responsible for its payment. However, since Hartford issued its binder, thereby agreeing to undertake the coverage of this risk, we find upon review that Hartford should be responsible for the payment of this loss.

This holding appears to be in conformity with the Legislative intent, as we understand it, of Section 65.1-105. The opinion of December 12, 1980, is therefore amended to provide that the award should be entered against Hartford Accident & Indemnity Company alone.

AWARD

An award is entered in favor of Lander Hendricks against Hartford & Accident & Indemnity Company at the rate of $111.07 per week beginning June 3, 1980 and to continue during incapacity.

From accrued compensation there shall be paid to Thomas O. Jones the sum of $650.00 for legal services rendered the claimant.

Medical benefits are awarded for as long as necessary.

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- [x] Show to whom and date delivered. . . . . ¢
- [ ] Show to whom, date, and address of delivery. . . . ¢
- [ ] RESTRICTED DELIVERY
  Show to whom and date delivered. . . . . ¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery. $
  (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Harold M. Walker, Jr. Esq. 670-772
605 Park Ave. Rd.
Falls Church, Virginia 22046

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	327864	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [ ] Authorized agent

4. DATE OF DELIVERY

POSTMARK
FALLS CHURCH VA
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1981

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO: 1979-272-362

STATEMENT OF QUESTION AND ASSIGNMENT OF ERROR

Whether Fidelity & Guaranty, having failed to comply with the cancellation requirements of Section 65.1-105 of the Virginia Code, 1950, as amended, remains liable with Hartford for workmen's compensation coverage.