

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
NINTH FLOOR STATE OFFICE BUILDING
333 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801
PHONE: (907) 465-2515 • FAX: (907) 465-3422
IF YOU NEED HEARING ASSISTANCE, PLEASE CALL ALASKA RELAY AT 711

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

In the Matter of:)
)
FRYE CLAIMS CONSULTATION &)
ADMINISTRATION, INC.)
)
Former Licensee)
_____)

Case No. D 16-06

ORDER ASSESSING CIVIL PENALTIES

1. The Division of Insurance (division) issued Frye Claims Consultation and Administration, Inc. (Frye) independent adjuster license number 70127 on or about April 4, 2008.
2. On or about April 4, 2010, Frye's license was renewed.
3. On or about February 22, 2012, the division sent Frye a notice to remind the firm to renew the firm's license.
4. On or about April 12, 2012, Cathy Isadore, supervisor of the licensing section in the division, emailed Bernie Mercado, an employee of Frye, informing him that

(A) Frye's renewal was incomplete and could not be processed;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

(B) the nonresident adjuster license that was issued to Frye by the State of Alaska was contingent upon Frye holding a resident license in Frye's home state pursuant to Alaska Statute (AS) 21.27.270(a);

(C) to renew Frye's license in Alaska, Frye would need to provide evidence that Frye was licensed and in good standing as an independent adjuster in its home state of California;

(D) California does issue adjuster business entity licenses;

(E) it appeared Frye did not obtain licensure under its correct legal name;

(F) AS 21.27.025 requires mandatory notification to be filed with the division within 30 days of the effective date of a change in name or residence or business address;

(G) if a license lapses, Alaska business cannot be transacted until the license is reinstated pursuant to AS 21.27.380(b); and

(H) Alaska statutes provide numerous penalties for transacting Alaska insurance business without a valid license.

5. Frye did not provide the evidence requested in Paragraph 4(C).

6. Because Frye did not provide the evidence requested in Paragraph 4(C), the division did not renew Frye's license.

7. Frye's license lapsed on or about April 20, 2012.

1
2 8. AS 21.27.380(b) provides: "If a license is not renewed on or before the renewal date
3 set by the director, the license lapses. A licensee may not act as or represent to be an insurance
4 producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary
5 manager, surplus lines broker, or independent adjuster during the time a license has lapsed. The
6 director may reinstate a lapsed license if the person continues to qualify for the license, pays
7 the renewal fees, and a delayed renewal penalty. Reinstatement does not exempt the person
8 from a penalty provided by law for transacting business while unlicensed. A license may not be
9 renewed if it has lapsed for two years or longer."

10
11 9. On or about June 27, 2014, the division received a consumer complaint involving a
12 claim adjustment performed by Frye's assigned insurance adjuster, Frank Lopez (Mr. Lopez).

13 10. On or about November 25, 2014, the division made a records query which
14 indicated

15 (A) Mr. Lopez was not licensed in Alaska as an insurance adjuster; and

16 (B) Frye's independent adjuster license number 70127, which lapsed on or
17 about April 20, 2012, had not been renewed.

18 11. On or about November 26, 2014, the division requested Frye to identify

19 (A) the licensing authority under which Frye was performing a claim
20 adjustment in Alaska in 2013 and 2014; and

21 (B) all insurance adjustments conducted in Alaska since April 14, 2012.
22
23
24
25
26

1
2 12. On or about December 11, 2014, Mark A.W. Smith (Smith), Vice President and
3 Claims Manager for Frye, responded to the division's November 26, 2014 request indicating

4 (A) the division had insisted that Frye provide a license from California, which
5 California simply doesn't issue;

6
7 (B) in order to ensure we had a license in effect in Alaska we converted the
8 application to a non-resident license for Mr. Frye which we hoped would have the same
9 effect since Mr. Frye is the sole owner of Frye, and the qualified manager in California;

10 (C) Lopez is not licensed in Alaska; and

11
12 (D) 85 claims had been handled by Frye with a nexus to Alaska since April,
13 2012.

14
15 13. On or about February 24, 2015, Linda Brunette (Ms. Brunette), program
16 coordinator for the licensing section of the division, informed Frye

17 (A) because Frye was unable to submit evidence that it was licensed and in
18 good standing in its home state, the firm's license lapsed on April, 20, 2012 for
19 nonrenewal;

20
21 (B) Mr. Thomas J. Frye (Mr. Frye), as the firm's compliance officer and as a
22 current licensee, is responsible for transacting business in compliance with Alaska's
23 laws;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

(C) an individual's license is not adequate for statutory compliance if the individual is representing Frye and Frye's name is not reflected on the individual's license;

(D) AS 21.27.010(a), in part, states that a person may not act as or represent to be a ...independent adjuster in this state or relative to a subject resident, located, or to be performed in this state unless licensed under this chapter...;

(E) advertising under the firm name by using letterhead reflecting the company's name or operating under executed contracts between the agency and the insurer would be instances of noncompliance with Alaska's laws:

(F) AS 21.27.010(d) specifically prohibits a licensee from using a fictitious or alias name unless the licensee's legal name and the fictitious or alias name are reflected on the license;

(G) the division's records indicate Mr. Lopez, an associate with Frye, was never licensed in this state and may have been adjusting insurance claims on behalf of Frye;

(H) AS 21.27.440(a) which provides for penalties as follows:

In addition to any other penalty provided by law, a person that the director determines under AS 21.06.170 – 21.06.240 has violated the provisions of this chapter is subject to

(1) a civil penalty equal to the compensation promised, paid, or to be paid, directly or indirectly, to a person in regard to each violation;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

(2) either a civil penalty of not more than \$10,000 for each violation or a civil penalty of not more than \$25,000 for each violation if the director determines that the person willfully violated the provisions of this chapter; and

(3) denial, nonrenewal, suspension, or revocation of a license; and

(I) of the division's willingness, with final approval by the director to resolve the matter by a settlement agreement.

14. On or about February 25, 2016, Mr. Clifton Johnson (Mr. Johnson) informed the division that he had replaced Mr. Frye and was the CEO of Frye Claims.

COUNT I

16. Paragraphs 1 through 15 are realleged as if fully set forth here.

17. As set out in Paragraphs 1 through 15, Frye represented to be an independent adjuster in this state in violation of AS 21.27.010(a).

18. Frye's representations are grounds for imposing penalties under AS 21.27.440.

COUNT II

19. Paragraphs 1 through 15 are realleged as if fully set forth here.

20. As set out in Paragraphs 1 through 15, Frye transacted 85 claims with a nexus to Alaska while unlicensed in the state in violation of AS 21.27.010(b).

21. Frye's unlicensed activities are grounds for imposing penalties under AS 21.27.440.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

COUNT III

22. Paragraphs 1 through 15 are realleged as if fully set forth here.

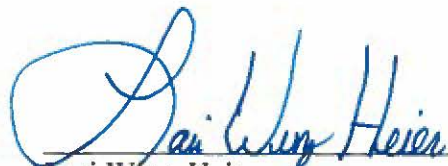
23. As set out in Paragraphs 1 through 15, even if the license alleged by Frye to be valid in the state is valid, the license did not include Frye's legal name in violation of AS 21.27.010(d).

24. Frye's operating under a license that did not include Frye's legal name is grounds for imposing penalties under AS 21.27.440.

IT IS ORDERED

Under AS 21.27.440, Frye Claims Consultation & Administration, Inc. is assessed a civil penalty in the amount of \$50,000.00. This order constitutes the final order in this matter. Under AS 21.06.230 and Alaska Appellate Rule 602(a)(2), you may appeal this final decision within 30 days. See the attached Notice of Final Order and Appeal Rights.

DATED March 23rd, 2017.


Lori Wing-Heier
Director

**NOTICE OF FINAL ORDER
AND APPEAL RIGHTS
D 16-06**

The enclosed order signed by the Director of Insurance is the final order in this action.

Pursuant to AS 21.06.230, and Alaska Appellate Rule 602(a)(2), within 30 days you may appeal this final decision.

AS 21.06.230 states:

A person aggrieved by an order of the director may appeal the order to the superior court, using procedures provided by court rule.

Alaska Appellate Rule 602(a)(2) provides:

An appeal may be taken to the superior court from an administrative agency within 30 days from the date that the decision appealed from is mailed or otherwise distributed to the appellant. If a request for agency reconsideration is timely filed before the agency, the notice of appeal must be filed within 30 days after the date the agency's reconsideration decision is mailed or otherwise distributed to the appellant, or after the date the request for reconsideration is deemed denied under agency regulations, whichever is earlier. The 30-day period for taking an appeal does not begin to run until the agency has issued a decision that clearly states that it is a final decision and that the claimant has thirty days to appeal. An appeal that is taken from a final decision that does not include such a statement is not a premature appeal.

For other applicable rules of court, see Alaska Appellate Rules 601-611.