

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

In the Matter of:)
)
MC DONALD INSURANCE GROUP, INC.)
and GORDON H. LEGG,)
)
Licensees.)
_____)

Case No. D 01-06

STIPULATED AGREEMENT AND ORDER

The Division of Insurance, (division) and McDonald Insurance Group, Inc. (McDonald) and Gordon H. Legg (Mr. Legg), the licensees in this case, stipulate and agree that the insurance activity that occurred during the time the licenses were in lapse status is resolved as follows:

Background

A. McDonald was first issued a non-resident firm insurance license on May 1, 1989 under license #9140. Mr. Legg was first issued insurance license #10664 on May 25, 1993 as the principal for McDonald. Prior to the 1997 renewal, which is a subject of this agreement, the firm license was renewed timely in 1993 and 1995. Mr. Legg's license renewed in 1995 on March 30.

B. The division mailed renewal forms for the 1997 renewals to McDonald and Mr. Legg on February 26, 1997 and March 27, 1997 respectively. The division did not

receive completed renewal forms and fees for McDonald or for Mr. Legg before their licenses expired. The firm's license expired on May 1, 1997 and Mr. Legg's license expired on June 30, 1997.

C. On May 6, 1997, the division mailed a notice to McDonald that its license had lapsed effective that date for failure to renew. The notice also stated that unless and until the license was reinstated the licensee was not authorized to transact insurance in this state. On that same day, a notice of pending lapse was mailed to Mr. Legg advising him that his license would lapse because the firm's license had lapsed, unless the firm reinstated its license or he met other requirements stated in the notice within 30 days. On June 30, 1997, the division received the renewal requirements for McDonald, which included a completed renewal form, a certificate of license status from Washington, a \$400 renewal fee, a \$100 late renewal fee.

D. On July 1, 1997, the division sent a fax transmittal form to Robert Spencer and Gordon Legg identifying additional items that were needed to process the firm's renewal, which included a listing of all officers, directors, partners, and owners and a notarized statement indicating whether or not insurance business was transacted while the license was lapsed. The form also stated that the license was not renewed pending receipt of the additional items. The division also sent a letter dated July 3, 1997 to Mr. Spencer and Mr. Legg confirming receipt of the license renewal/reinstatement requirements for the agency license that had lapsed. The letter also confirmed the division's notification, by phone, to a member of the firm that the license of Mr. Legg was due for renewal.

E. On July 7, 1997, the division received the notarized statement and the listing of officers, directors, partners, and owners for the firm. The division also received the renewal filing for Mr. Legg, whose license had expired on June 30, 1997.

F. On August 15, 1997, Linda Brunette, the division licensing supervisor, sent a letter to McDonald offering a settlement to resolve the unlicensed activity reported on the notarized statement. In the letter, Ms. Brunette advised McDonald and Mr. Legg that they were not licensed to transact Alaska insurance business until the unlicensed activity matter was resolved. McDonald and Mr. Legg did not respond to this letter even after it was sent to them a second time, by certified mail. On February 17, 1998, the division sent Mr. Legg a lapse notice that was effective that day and that stated he was not authorized to transact insurance in this state. Because the unlicensed activity was not resolved, the division did not reinstate the licenses.

G. On August 23, 1999, the division received an application for a nonresident firm license and \$435 from McDonald, along with a notarized statement of insurance activity after February 17, 1998, the date Mr. Legg's license lapsed. Again, the application was incomplete and McDonald was notified on August 30, 1999. The submission was subsequently completed on September 10, 1999. The license application was not processed pending further review of the unlicensed activity and investigation of a complaint regarding the unlicensed activity.

J. From March 2000 through the present, the division and McDonald, through its attorney, have exchanged correspondence in efforts to resolve the licensing issues

and, specifically, the unlicensed activity. The division had concerns that there was a knowing violation of the licensing laws based on the insurance activity that occurred after the division sent correspondence to McDonald stating that the licenses had not been reinstated. McDonald and Mr. Legg, however, assert that they never believed they were operating without the statutorily required licenses since renewal documents had been submitted and fees had been paid.

Terms and Conditions

1. For purposes of settlement, the parties agree that for the period the division contends McDonald's and Mr. Legg's licenses were in lapse status, the firm transacted the business of insurance and received compensation in the amount of \$7,408.25 as demonstrated by documentation they provided to the division.

2. Under AS 21.27.420(c), the division will reinstate McDonald's and Mr. Legg's insurance licenses subject to the condition that McDonald and Mr. Legg pay a civil penalty of \$10,000 with \$5,000 suspended, and a civil penalty of \$7,408.25 as allowed under AS 21.27.420. The unsuspended portion of the penalty is due within one year after the date ^{if} _^ this agreement and order is signed by the director.

3. McDonald and Legg acknowledge that they have the responsibility under the insurance code for knowing the date that their licenses lapse and for ensuring that their licenses are renewed prior to expiration.

4. In the event McDonald and Mr. Legg violate the insurance code or applicable regulations during the next two years (in particular, fail to renew the licenses

timely), the suspended portion of the fine referenced in paragraph 2 will be reinstated.

McDonald and Mr. McAllister also will be subjected to any and all sanctions authorized by the insurance code including imposition of additional fines or penalties.

5. By signing this agreement, McDonald and Mr. McAllister understand and agree that any failure to comply with the conditions of this agreement will be grounds to revoke, suspend, or not renew Alaska insurance licenses #9140 and #10664.

6. McDonald and Mr. McAllister acknowledge that they have been advised by counsel regarding the nature and purpose of this agreement and that they understand the terms and conditions of this agreement.

7. McDonald and Mr. McAllister understand that this agreement is not binding on the parties unless and until the director signs the order approving the agreement.

DATED: 8/14/01

DIVISION OF INSURANCE

By: Linda Brunette
Linda Brunette
Licensing Supervisor

DATED: 7/24/01

MCDONALD INSURANCE GROUP, INC.

By: Frank McAllister
Frank McAllister
President

DATED: 7/24/01

Gordon H. Legg
GORDON H. LEGG

Approved as to form and content:

DATED: 8/9/01

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: Signe P. Andersen
Signe P. Andersen
Assistant Attorney General

ORDER

IT IS ORDERED that this Stipulated Agreement and Order is adopted in full resolution of the issues in this case, and shall constitute the final order in this matter.

DATED this 15th day of August, 2001.

Robert A. Lohr
Robert A. Lohr
Director of Insurance