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STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
BEFORE THE DIVISION OF INSURANCE

IN THE MATTER OF
COLONY BUILDERS, INC.
Applicant/Appellant

Case No. H99-03

HEARING OFFICER'S RECOMMENDATION

I. Facts and Procedural History

This case, involving a dispute between Colony Builders, Inc. and Alaska National Insurance Company, was referred to this hearing officer on December 17, 1999. A pre-hearing conference was promptly scheduled for January 12, 2000. At the conference, the facts and legal issues in dispute were discussed, and it was agreed that the material dispute was legal and not factual. The parties ultimately agreed that there was no need for a hearing to establish the facts. Following this conference, the parties submitted the written materials they considered relevant, and they signed a stipulation regarding the material facts.

Based on the material submitted, the hearing officer prepared a draft copy of the findings of fact, conclusions of law, and proposed decision. Before submitting the draft to the director, the hearing officer circulated it to the parties on April 25, 2000. The hearing officer invited any objections to be submitted by May 22, 2000, so they could be addressed before submission of the recommendation to the director. There were no objections, but on or around May 22, 2000 the attorney for Alaska National contacted the hearing officer's clerk to advise that the parties had reached a stipulated agreement to dismiss the case, and that they would be submitting a written dismissal shortly. In light of this communication, the recommendation was not submitted to the director.

The parties did not submit the stipulation. On July 18, 2000 the hearing officer's clerk contacted the office of Alaska National's attorney to check on the status of the case. She was advised that the attorney was out of the state, but that they were still waiting for Colony Builders

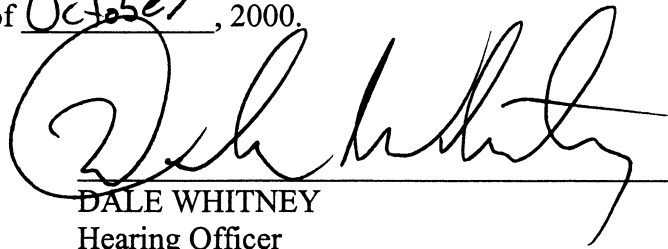
1 to return the hard copy of the stipulation they had agreed to sign. The stipulation still not being
2 forthcoming, the hearing officer sent a letter to the parties on August 4, 2000 indicating that the
3 stipulation had not been received, and that unless it was submitted by August 21, 2000, the
4 original recommendation would be forwarded to the director. Having received no answer, the
5 hearing officer's clerk made a courtesy call to Alaska National's attorney on August 23, 2000.
6 On August 24, 2000 Alaska National's attorney sent a letter to the clerk containing the following
7 information:

8 As a follow-up to my secretary's conversation with you of August 23, 2000, I am
9 writing to inform you that it is Alaska National Insurance Company's intent to settle the
10 above-referenced matter. A delay occurred when Alaska National had to re-audit Colony
11 Builders' account. We have just received the results of that audit and have not yet had
12 time to relay that information to Mr. Taylor of Colony Builders. We anticipate being
13 able to settle the case and file an appropriate stipulation within the next few weeks.

14 On September 11, 2000 Bill Taylor of Colony Builders spoke with the hearing officer's
15 clerk by phone and indicated that a stipulation to dismiss the case had been agreed to, and that it
16 would promptly be submitted to the hearing officer. As of October 6, 2000, nothing further has
17 been received from either party.

18 Based on the entire record, the hearing officer hereby finds that dismissal of this case
19 with prejudice would not result in injustice to either party. The parties have each expressed a
20 desire to dismiss this case. The parties have not responded to letters from the hearing officer in
21 any manner other than by oral representations that an agreement has been reached to dismiss the
22 case and the August 24 letter referenced above. In light of the parties' oral expressions and their
23 non-responsiveness, it would be appropriate for the director to give effect to the parties'
24 expressed intent by dismissing this case with prejudice for want of prosecution.
25

Signed at Juneau this 9th day of October, 2000.



DALE WHITNEY
Hearing Officer

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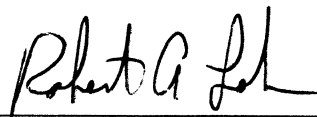
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ORDER OF THE DIRECTOR OF INSURANCE

This matter comes before the director by way of the hearing officer. The parties have each indicated their desire to dismiss the case. The hearing officer has recommended that the case be dismissed with prejudice for lack of prosecution. I have reviewed the recommendation of the hearing officer and the records and file in this case. I find that the parties, despite repeated prompting from the hearing officer, have failed to follow through on their expressed intention to settle this case by submitting an appropriate stipulation. Therefore,

It is hereby ordered that this case is dismissed with prejudice.

Signed at Anchorage this 17th day of October, 2000.



ROBERT A. LOHR
Director