

1 STATE OF ALASKA
2 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF INSURANCE

4 CEASE AND DESIST ORDER D 00-06

5 TO: Leavell Insurance & Real Estate, Inc. Leavell Insurance, Inc.
6 P.O. Drawer D P.O. Box 848
7 Jal, NM 88252 Hobbs, NM 88241

8 Attn: Carroll H. Leavell, Principal
and Compliance Officer

9 Robert A Lohr, director, Division of Insurance, Department of Community and
10 Economic Development, State of Alaska, acting in his official capacity, has determined that
11 Leavell Insurance & Real Estate, Inc. (Leavell), Alaska Surplus Lines Broker license
12 #15733, has misrepresented terms of an insurance policy in the State of Alaska or relative to
13 a subject resident, located, or to be performed in the State of Alaska in violation of AS
21.36.030, and committed additional violations of the Alaska Insurance Code as described
below.

14 More specifically:

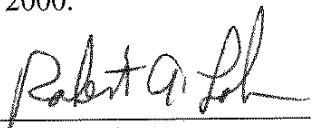
- 15 1) Leavell issued a Certificate of Liability Insurance for Kenai Air Alaska, Inc. that
16 misrepresents terms of the insurance policy. The certificate, which shows a policy
17 effective date of May 11, 2000 and bears the signature of Stephen Uslan, misrepresents
18 the passenger liability limits as \$1,000,000 per seat. However, Policy Number 012260-
011, issued to Kenai Air Alaska, Inc. by Houston Casualty Company with an effective
19 date of May 11, 2000, shows passenger bodily injury liability of \$300,000.
- 20 2) AS 21.27.010(d) prohibits a licensee from using a fictitious name or alias unless the
21 licensee's legal name and fictitious name or alias are on the license. AS 21.27.025
22 requires a licensee to notify the director within 30 days of any change in pertinent
information, including legal name, fictitious name or alias, and mailing address.
23 Documentation and correspondence regarding Policy Number 012260-011 shows
Leavell used a name and address different from the name and address in the division's
records for license #15733.
- 24 3) AS 21.34.100(a) and 3 AAC 25.060 require the surplus lines broker to deliver the policy,
25 or if it is not then available, a certificate, cover note, binder or other evidence of
26 insurance within 30 days after placing the coverage. AS 21.34.100(d) requires the
surplus lines broker to deliver the policy issued by the insurer as soon as possible after
placement of the insurance. Until requested by the Division of Insurance, Leavell did
not deliver Policy Number 012260-011, issued to Kenai Air Alaska, Inc. by Houston
Casualty Company with an effective date of May 11, 2000, to the insured.

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- 4) If the policy is not available for delivery within 30 days after placement of the insurance, AS 21.34.100(a) requires delivery of a certificate, cover note, binder, or other evidence of insurance, which must be executed by the surplus lines broker. A certificate, cover note, binder, or other evidence of insurance must contain, along with other information, the premium and rate charged and taxes to be collected from the insured and the name and license number of the surplus lines broker. Leavell did not deliver any certificate, cover note, binder or other evidence of insurance complying with these requirements.
 - 5) AS 21.34.110 and 3 AAC 25.070 provide that a surplus lines broker may not require payment of any premium charged until the surplus lines broker has given the insured notice, in writing, that the insurer does not hold a certificate of authority issued by the State of Alaska and is not subject to the supervision of the division, and, in the event of the insolvency of the insurer, losses will not be covered under the Alaska Insurance Guaranty Association Act, AS 21.80. AS 21.34.100(f) requires every evidence of insurance to bear a notice stating that the insurance is procured and developed under the Alaska Surplus Lines law, AS 21.34, and is not covered by the Alaska Insurance Guaranty Association Act, AS 21.80. Neither the Certificate of Liability Insurance prepared for Kenai Air Alaska, Inc. nor Policy Number 012260-011, issued to Kenai Air Alaska, Inc. by Houston Casualty Company with an effective date of May 11, 2000, include the required notice.
 - 6) 3 AAC 25.050 requires a policy or other evidence of insurance delivered under AS 21.34.100 to include an Alaska surplus lines policy-holder notice regarding nonrenewal and premium increase, in a format approved by the director. Neither the Certificate of Liability Insurance prepared for Kenai Air Alaska, Inc. nor Policy Number 012260-011, issued to Kenai Air Alaska, Inc. by Houston Casualty Company with an effective date of May 11, 2000, include the notice required by 3 AAC 25.050.

Leavell Insurance, Inc. is hereby ordered to cease and desist from any misrepresentation of the terms of insurance coverage under any policy in the State of Alaska or relative to a subject resident, located, or to be performed in the State of Alaska. Any further misrepresentation of the terms of insurance coverage will be considered a wilful violation and will subject you to appropriate penalties under AS 21.36.320 for violation of this order or for wilful violation of the insurance code. In addition, any failure to fully comply with the requirements of AS 21.27 or AS 21.34 will subject you to penalties under AS 21.27.440 or AS 21.34.230.

This order is effective immediately.

Dated at Anchorage, Alaska this 28th day of September, 2000.



Robert A. Lohr
Director

1 STATE OF ALASKA
2 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF INSURANCE

4 Re: Cease and Desist Order Number D 00-06
5 In the Matter of Leavell Insurance and Real Estate, Inc.

6 STIPULATION TO POSTPONE HEARING PENDING
7 FURTHER INVESTIGATION AND SETTLEMENT EFFORTS

8 On September 28, Alaska Division of Insurance director
9 Robert A. Lohr signed Cease and Desist Order D 00-06 directed
10 to Leavell Insurance and Real Estate, Inc. (Leavell), Alaska
11 Surplus Lines Broker License # 15733. On October 6, 2000,
12 Leavell filed a request for hearing.

13 For purposes of this stipulation, Leavell does not admit
14 that the allegations of the Cease and Desist Order are correct
15 nor that it has misrepresented the terms of any insurance
16 coverage under any policy in the State of Alaska, nor does
17 Leavell admit that the allegations of the Cease and Desist
18 Order, if proven, would provide grounds for any action by the
19 State of Alaska. However, without admission of any matter
20 relating to the conduct alleged in the Cease and Desist Order,
21 Leavell has represented through counsel that it will not
22 misrepresent the terms of insurance coverage under any policy
23 in Alaska, and further has represented that Leavell is not
24 currently in the process of placing any insurance on behalf of
25 Alaska clients.

26 Now Therefore:

The Alaska Division of Insurance and Leavell agree and stipulate to postpone the hearing requested by Leavell pending completion of the Division's investigation of Leavell's activities and further efforts between the parties to resolve any violations identified in the Division's investigation.

BRUCE M. BOTELHO
ATTORNEY GENERAL

DATED: 10.12.00

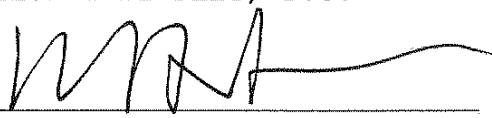
By: Virginia A Rusch
Virginia A. Rusch
Assistant Attorney General
Representing the Division
of Insurance

LAW OFFICES
DILLON & FINDLEY
A PROFESSIONAL CORPORATION
The Ebaer Building
350 North Franklin Street
Juneau, Alaska 99801
(907) 586-4000

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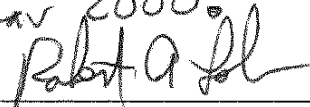
DILLON & FINDLEY, P.C.

DATED: 10.12.00

By: 
Richard D. Monkman
Attorneys for Leavell
Insurance
& Real Estate, Inc.

ORDER

IT IS SO ORDERED,
DATED: October 16, 2000

shall be scheduled during the year 2000, provided that the leaving


Robert A. Lohr
Director
Alaska Division of Insurance