

3601 C STREET, SUITE 1324
ANCHORAGE, ALASKA 99503-5948
PHONE (907) 269-7900
FAX (907) 269-7910
TDD (907) 465-5437

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

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STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

In re:)
Application for Renewal of License of)
FLOYD L. SHILANSKI,)
6538 Colgate Drive)
Anchorage, AK 99504.)

Case No. LD97-03

STATEMENT OF ISSUES

Marianne K. Burke, Director, Division of Insurance (division),
Department of Commerce and Economic Development, State of Alaska, states:

1. On or about September 11, 1997, the division received an application for renewal of insurance producer license #553 from Floyd L. Shilanski (Shilanski) for life, health, variable life, and variable annuity lines of authority. On or about October 20, 1997, the division received additional information regarding that renewal from Shilanski.
2. On or about April 8, 1997, the Division of Banking, Securities, and Corporations (DBSC) and Shilanski, entered into Consent Agreement and Order #97-06S, In the Matter of Shilanski and Associates, Inc. and Floyd L. Shilanski, President of Shilanski and Associates, Inc., Respondents. (Exhibit A, attached.) Shilanski and Associates, Inc. is an Alaska-registered Investment Adviser under License Number I-000154.

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3. Under the Consent Agreement and Order, Shilanski, as President of Shilanski and Associates, Inc., acknowledged the commission of multiple violations of the Alaska Securities Act. Those violations include:

a. a total of eight instances of custody, each in violation of AS 45.55.020(e)(2);

b. a total of eight instances of commingling client and personal funds, in violation of 3 AAC 08.029(a), which requires segregated accounts;

c. a total of six materially false statements on Form ADV required by DBSC for the annual renewal of Shilanski and Associates, Inc.'s investment adviser registration, each in violation of AS 45.55.060(a)(1) and AS 45.55.160; the failure to correct a statement on the November 15, 1989 Form ADV, in violation of AS 45.55.050(c); and, as a result of these false statements, the failure to file Schedule G with each of seven Form ADVs, thus making each Form ADV incomplete in a material respect in violation of AS 45.55.060(a)(1);

d. in addition to those cited in (c) above, a total of seven more materially false statements on Form ADV, each in violation of AS 45.55.060(a)(1) and AS 45 55.160; and the failure to correct a statement on the November 15, 1989 Form ADV, in violation of AS 45.55.050(c);

e. along with those cited in (c) and (d) above, materially false statements on four Form ADVs dated January 1, 1993, January 17, 1994,

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January 13, 1995, and April 1, 1996, each in violation of AS 45.55.060(a)(1) and AS 45 55.160;

f. under six agreements with clients, the retention of 60 percent of the income constituted an unreasonable commission, each of which is a violation of 3 AAC 08.061(a)(1); and the terms of each agreement violated the investment adviser contract with clients, which prohibits compensation based on a share of capital gains or appreciation, each in violation of AS 45.55.020(b)(1);

g. a note owned by Shilanski is a security under AS 45.55.990(12) and, as the note was not registered or exempt from registration under AS 45.55.900, the sale of an interest in that note is a violation of AS 55.070; and

h. a letter from Shilanski to DBSC dated January 31, 1996 contained untrue statements and omitted material information, in violation of AS 45.55.160; Shilanski's failure to promptly correct this letter is a violation of AS 45.55.050(c).

4. Under the Consent Agreement and Order, Shilanski as President of Shilanski and Associates, Inc. agreed to pay a civil fine of \$25,000 and also agreed that Shilanski would not apply for a broker-dealer agent license in Alaska for a one year period from the execution date (April 4, 1997).

5. The violations of law that Shilanski admitted to under Consent Agreement and Order #97-06S demonstrate untrustworthy behavior that


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precludes issuance or renewal of a license under AS 21.27.020(a) or
21.27.410(a)(8).

6. As a variable contract licensee, Shilanski is required to
comply with 3 AAC 28.170(r). Shilanski failed to immediately report to the
director the disciplinary sanctions under Consent Agreement and Order #97-06S
as required by 3 AAC 28.170(r).

7. Pursuant to AS 21.27.020(a), 21.27.020(b)(4) and (6),
21.27.410(a)(8), and 3 AAC 28.170(s), the application of Floyd L. Shilanski for the
renewal of insurance producer license #553 is hereby DENIED.

DATED this 19th day of December, 1997.


Marianne K. Burke
Director
Division of Insurance

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STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

In re:)
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FLOYD L. SHILANSKI,)
6538 Colgate Drive)
Anchorage, AK 99504.)
_____)

Case No. LD97-03

STIPULATED AGREEMENT AND ORDER

The Division of Insurance, Department of Commerce and Economic Development (division) and Floyd L. Shilanski (Mr. Shilanski) stipulate and agree that the Statement of Issues issued in the above-captioned case on December 19, 1997 and the Amended Statement of Issues dated June 19, 1998 are resolved as follows:

1. Mr. Shilanski admits he engaged in the activities that are the basis for the Consent Agreement and Order dated April 8, 1997 (the Consent Agreement) between Floyd L. Shilanski and the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations, attached hereto as Exhibit A.

2. Mr. Shilanski agrees and stipulates that his activities described in the Consent Agreement are relevant to statutory qualifications set out in AS 21.27.020 and AS 21.27.410 for an insurance license in the State of Alaska.

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1331 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

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3. Mr. Shilanski also agrees that it is appropriate for the division, in the exercise of authority under AS 21.27.020 and AS 21.27.410 for the protection of the public, to condition the renewal of his insurance producer license #553 on imposition of the disciplinary sanctions described in paragraphs 4 through 10 below.

4. License suspension. The division will impose a suspension of one year on Mr. Shilanski's insurance producer license, subject to the following: 1) six months of the suspension will be deferred and considered satisfied two years after the reinstatement of his license, if Mr. Shilanski commits no further activities of the nature described in the Consent Agreement during that period; 2) the undeferred portion of the suspension will be further reduced by one month, representing a credit for the period in late 1997 when Mr. Shilanski was unable to transact insurance business in Alaska while the division was completing its review of his renewal application. Suspension of Mr. Shilanski's license for the remaining five months will commence on October 1, 1998 if the director approves this agreement by that date. If the director approves this agreement after October 1, but no later than October 15, the suspension will begin immediately upon notification to Mr. Shilanski. If the director does not approve this agreement by October 15, 1998, it will be considered rejected, and will not be binding on either party. If this agreement is not accepted, nothing in the agreement will be used as evidence to prove any of the allegations against Mr. Shilanski, nor will it constitute the waiver of any legal arguments or positions of Mr. Shilanski.

1 5. Relinquishment and reissuance of license. On the first day of the
2 suspension period specified in this agreement, Mr. Shilanski will return his
3 current license to the division. Within five working days of the end of the five-
4 month suspension period, if Mr. Shilanski has successfully completed the
5 additional terms set forth in paragraphs 6, 7, and 8 of this agreement, the division
6 will issue a conditional license to Mr Shilanski reflecting the terms of paragraph
7 4, 9 and 10 of this agreement which extend for two years following the end of the
8 five month suspension. When all conditions of this agreement are met, the
9 division will issue an unconditioned license upon request by Mr. Shilanski.
10

11 6. Civil penalty. Mr. Shilanski will pay a civil penalty of \$5,000, an
12 amount established as a partial recoupment of the division's costs in investigation
13 of this matter. In accordance with AS 21.27.440(b), the penalty will be paid in
14 full no later than 30 days after the director signs this order.
15

16 7. Ethics course. Before the end of the period of license suspension,
17 Mr. Shilanski will provide to the division proof that he has completed the Life
18 Underwriting Training Counsel's course on ethics in insurance or an equivalent
19 course offered by another organization.
20

21 8. Retesting. Before the end of the period of license suspension,
22 a. Mr. Shilanski will take and pass the state code portion of
23 the insurance licensing examination for the lines of insurance for
24 which he will be licensed;
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1 b. Mr. Shilanski will submit proof of his passing the NASD
2 exam and provide all necessary qualifications for variable life and
3 variable annuity licensure as required under 3 AAC 28.170;

4 9. Quarterly reports. Upon reissuance of his license, Mr. Shilanski
5 will submit to the division quarterly sworn statements indicating that he has
6 complied with the insurance code and applicable regulations. The statements
7 should be in a form similar to the attached Exhibit B. The statements are due on
8 the 10th day of the first month of each quarter. This condition will remain in
9 effect for two years from the date the division reissues his license.
10

11 10. Additional limitation. Mr. Shilanski may not be licensed as a
12 principal or compliance officer of Shilanski and Associates, Inc. or any other
13 insurance firm for a period of two years from reissuance of his license.
14

15 11. Examination. Mr. Shilanski recognizes that the division is
16 authorized by AS 21.06.130 to conduct examinations of Mr. Shilanski as an
17 individual licensee or of the firm Shilanski and Associates, Inc. at any time in its
18 discretion. Mr. Shilanski acknowledges the division does intend to conduct such
19 examinations, at a time determined by the availability of the division's staff. This
20 agreement does not bar the division from taking any enforcement action within its
21 authority, should any examination reveal new violations not based on the same
22 incidents giving rise to the Consent Agreement and this administrative action.
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ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

1 12. The disciplinary provisions set out in this agreement constitute a
2 full and final resolution of all issues raised by the incidents described in the
3 Consent Agreement.

4 13. By signing this agreement, Mr. Shilanski understands and
5 agrees that any material failure to comply with the conditions of this agreement
6 will be grounds to revoke, suspend, or non-renew his Alaska insurance license.
7

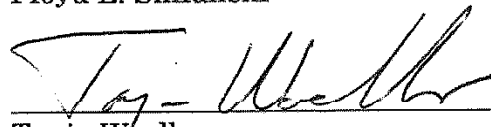
8 14. Mr. Shilanski has been advised by legal counsel regarding the
9 nature and purpose of this agreement and order and acknowledges by his
10 signature below that he understands it.
11

12
13 DATED: 9/28/98



Floyd L. Shilanski

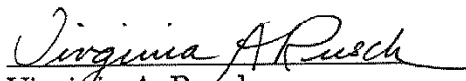
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15 DATED: 9/28/98



Tonja Woelber
Attorney for Floyd L. Shilanski

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19 DATED: Sept. 28, 1998

BRUCE M. BOTELHO
ATTORNEY GENERAL

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21 By: 

Virginia A. Rusch
Assistant Attorney General
Representing the Division
22 of Insurance
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HEARING OFFICER'S RECOMMENDATION

The undersigned hearing officer appointed by the director hereby recommends approval of this Stipulated Agreement between the division and Mr. Shilanski.


Dated this 29th day of September, 1998.


Sharon L. Gleason, Hearing Officer

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. The suspension of the insurance producer license #553 of Mr. Shilanski shall begin on immediately upon notification of Mr. Shilanski, 1998.

Dated this 6th day of October, 1998.


Marianne K. Burke
Director of Insurance

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ANCHORAGE, ALASKA 99501
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