



**Department of Community
and Economic Development**

Division of Insurance

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ORDER NUMBER R 02-03

June 13, 2002

**ORDER LEVYING PENALTY UNDER AS 21.09.200(e) AGAINST
ARECA INSURANCE EXCHANGE FOR FAILURE TO FILE A COMPLETE
ANNUAL STATEMENT AND OTHER REQUIRED INFORMATION
BY THE MARCH 1, 2002 AND APRIL 1, 2002 DUE DATES**

BACKGROUND:

1. On March 1, 2002, the Division of Insurance received the 2001 annual statement of ARECA Insurance Exchange (ARECA), for the year ending December 31, 2001.

2. AS 21.09.200(a) requires each authorized insurer to annually file with the director, before March 2, "a full and true statement of its financial condition, transactions, and affairs as of the preceding December 31." The required reporting format is the one "most recently approved by the National Association of Insurance Commissioners' (NAIC) annual financial statement blank form and instructions, supplemented for additional information as required by the director."

3. On January 11, 2001, the director issued Bulletin B 01-03 to Alaska domestic insurance companies covering filing requirements for insurance company financial statements. The bulletin states:

The financial statement filings must also be complete at the time they are filed with the division. . . . In addition, the financial statements must include all supplemental pages required as of the filing date. The division will not consider a financial statement properly filed if it is submitted without the appropriate original signatures, properly notarized, or without the necessary supplemental pages.

4. The NAIC Annual Statement Instructions state that if the annual statement does not contain the information asked for in the blank form or is not prepared in accordance with these instructions, it will not be considered filed.

5. ARECA submitted a risk based capital (RBC) report with its annual statement, but it was not signed as required by AS 21.14.010. The division received a signed RBC report from ARECA on April 22, 2002.

6. The Supplemental Compensation Exhibit that ARECA included with its 2001 annual statement was not completed in accordance with the NAIC Annual Statement Instructions. The exhibit should have included any and all remuneration paid to or on behalf of an officer, employee, or director covered by this requirement, for a three-year period. The NAIC Annual Statement Instructions require listing the compensation of the chief executive and the four most highly paid other executive officers, regardless of the amount of compensation, and the next five highly compensated employees whose individual total compensation exceeds \$100,000.

7. ARECA submitted a complete Supplemental Compensation Exhibit to the division on April 29, 2002, which was the same date ARECA re-filed its 2001 annual statement.

8. According to the NAIC Annual Statement Instructions, "Companies should account for every page of the annual statement in consecutive page number order. If several consecutive pages are 'None,' . . . the appropriate page numbers with Exhibit or Schedule headings may be listed on one page." Further, "If this report does not contain the information asked for in the blanks or is not prepared in accordance with these instructions, it will not be considered filed."

9. The NAIC Annual Statement Instructions require that when the filing of an amended annual statement is necessary, all related filings including electronic filings must be resubmitted.

10. The Management Discussion and Analysis and the Insurance Expense Exhibit are supplements to the annual statement that must be filed by April 1 each year. The Management Discussion and Analysis and the Insurance Expense Exhibit for ARECA were filed with the division on May 20, 2002.

11. Under AS 21.09.200(e), an insurer must pay to the division \$100 for each day the insurer fails to file the annual statement in the form required and by the due date of March 1.

FINDINGS:

The director finds that:

A. ARECA's 2001 annual statement initially filed with the division on March 1, 2002 did not constitute a complete filing as required by AS 21.09.200(a) and by the NAIC annual statement instructions.

B. ARECA's annual statement re-filed with the division on April 29, 2002 was 59 days late.

C. The RBC report filed with ARECA's annual statement was not signed as required by the NAIC Annual Statement Instructions. The signed RBC report filed on April 22, 2002 was 52 days late.

D. ARECA's Supplemental Compensation Exhibit was incomplete and did not conform to the NAIC Annual Statement Instructions. The complete Supplemental Compensation Exhibit re-filed on April 29, 2002 was 59 days late.

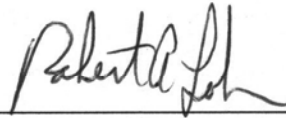
E. Both the Management Discussion and Analysis and the Insurance Expense Exhibit were filed on May 20, 2002, 49 days late.

IT IS HEREBY ORDERED:

Under AS 21.09.200(e), the director levies a civil penalty against ARECA of \$100 per day from March 2, 2002 through April 29, 2002 for ARECA's failure to timely file a complete annual statement for the year 2001 with the division and for failure to timely file a signed RBC report. A civil penalty of \$100 per day from April 1, 2002 through May 20, 2002 is also assessed for failure to timely file the Management Discussion and Analysis and Insurance Expense Exhibit, with the penalty for the dates from April 1 through April 29 to be concurrent.

The total penalty assessed is \$8,000; with \$4,000 suspended. The unsuspended penalty of \$4,000 is due and payable within 30 days of ARECA's receipt of this order. If ARECA violates the insurance code or applicable regulations during the next 18 months (in particular, fails to timely and completely file its 2002 annual statement and related documents with the division), the suspended portion of the penalty will be reinstated. ARECA also would be subject to any and all sanctions authorized by statute, including imposition of additional fines or penalties regarding any such violation.

This order takes effect June 13, 2002.



Robert A. Lohr
Director