

Frank H. Murkowski, Governor

**Department of Community
and Economic Development**

Division of Insurance

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ORDER NUMBER R 04-04

April 29, 2004

**ORDER LEVYING PENALTY AGAINST ARECA INSURANCE EXCHANGE
FOR FAILURE TO FILE A COMPLETE ANNUAL STATEMENT
BY THE MARCH 1, 2004 DUE DATE**

BACKGROUND:

1. On March 18, 2004, the Division of Insurance notified ARECA Insurance Exchange (ARECA) that, if its 2003 annual statement, which was due March 1, 2004, was not filed with the division by noon, March 19, 2004, the division would issue an order suspending ARECA's certificate of authority.

2. On March 19, 2004, the division received ARECA's 2003 annual statement, the minimum asset reserve report, and actuary's opinion for the year ending December 31, 2003.

3. 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."

4. On January 11, 2001, the director issued Bulletin B 01-03 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.

5. 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 the instructions, it will not be considered filed.

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6. ARECA submitted a risk based capital (RBC) report on March 22, 2004, but it was not signed as required by AS 21.14.010. The division received a signed RBC report from ARECA on April 16, 2004.

7. On March 24, 2004, ARECA filed with the National Association of Insurance Commissioners (NAIC) an electronic copy of the 2003 annual statement, which under AS 21.09.200(f) was due March 1.

8. 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. This penalty also applies to a late electronic filing of the annual statement with the NAIC. Under AS 21.14.100, an insurer must pay to the division \$100 for each day the insurer fails to file the RBC report by the due date of March 1.

9. On June 13, 2002, the director issued Order Number R 02-03 to ARECA levying a penalty under AS 21.09.200(e) against ARECA. The total penalty assessed was \$8,000, with \$4,000 suspended, conditioned on ARECA not violating the insurance code or applicable regulations during the next 18 months.

10. On June 12, 2003, ARECA filed its first quarter report with the division, which was due May 15, 2003. As provided by AS 21.09.205, the division fined ARECA \$1,100 for its violation of the filing requirements under AS 21.09.205.

11. On August 26, 2003, ARECA filed its second quarter report with the division, which was due August 15, 2003. As provided by AS 21.09.205, the division fined ARECA \$1,100 for its violation of the filing requirements under AS 21.09.205.

12. On December 8, 2003, ARECA filed its third quarter report with the division, which was due November 15, 2003. As provided by AS 21.09.205, the division fined ARECA \$2,100 for its violation of the filing requirements under AS 21.09.205.

FINDINGS:

The director finds that:

A. ARECA's 2003 annual statement, the minimum asset reserve report, and actuary's opinion filed with the division on March 19, 2004 were 18 days late.

B. The RBC report filed by ARECA on March 22, 2004 was not signed as required by the NAIC RBC Instructions and AS 21.14.010. The signed RBC report filed on April 16, 2004 was 45 days late.

C. The electronic copy of the 2003 annual statement filed by ARECA on March 24, 2004 with the National Association of Insurance Commissioners, as required by AS 21.09.200(f), was 23 days late.

D. The late quarterly report filings described in paragraphs 10 through 12 above are violations of AS 21.09.205. These violations occurred during the 18 months since Order No. R 02-03 was issued and are, therefore, grounds to reinstate the suspended portion of the penalty in that order.

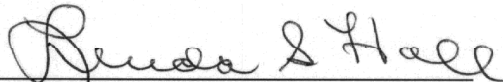
IT IS HEREBY ORDERED:

I. Under AS 21.09.200(e), the director levies a civil penalty against ARECA of \$100 per day from March 2, 2004 through March 19, 2004 for ARECA's failure to timely file a complete annual statement for the year 2003 with the division. (\$1,800) An additional civil penalty of \$100 per day from March 20, 2004 through April 16, 2004 is assessed for failure to timely file a signed RBC report. (\$2,800) A civil penalty of \$100 per day from March 2, 2004 through March 24, 2004 is assessed for failure to timely file an electronic copy of the 2003 annual statement with the National Association of Insurance Commissioners. (\$2,300) The total civil penalty assessed ARECA is \$6,900.

II. The suspended penalty of \$4,000 under Order No. R 02-03 is hereby reinstated.

III. The civil penalty of \$6,900 and the reinstated penalty of \$4,000 are due and payable within 30 days of ARECA's receipt of this order.

This order takes effect April 29, 2004.



Linda S. Hall
Director