

Statutory Targeted Examination of  
**Fred Adkerson, Inc.**  
**dba Fred's Bail Bonding**

FE09-01

Issued by  
**STATE OF ALASKA**  
**DEPARTMENT OF COMMERCE, COMMUNITY AND**  
**ECONOMIC DEVELOPMENT**  
**DIVISION OF INSURANCE**

**FINAL REPORT:**  
**October 27, 2009**

1  
2 CERTIFIED MAIL  
3 RETURN RECEIPT REQUESTED

4 STATE OF ALASKA  
5 DEPARTMENT OF COMMERCE, COMMUNITY,  
6 AND ECONOMIC DEVELOPMENT  
7 DIVISION OF INSURANCE  
8 550 W. 7<sup>th</sup> Avenue, Suite 1560  
9 Anchorage, AK 99501

10 Order #FE09-01 )  
11 In the Matter of Examination of )  
12 Fred Adkerson, Inc. )  
13 dba Fred's Bail Bonding )

14 FINDINGS OF FACT

15 1. A report of examination of Fred Adkerson, Inc., dba Fred's Bail Bonding domiciled in  
16 the State of Alaska, has been issued by the State of Alaska, Division of Insurance, to Fred  
17 Adkerson, Inc., dba Fred's Bail Bonding.

18 2. The Report of Examination of Fred Adkerson, Inc., dba Fred's Bail Bonding (#FE09-  
19 01) has been transmitted to Mr. Fred Adkerson, President, Fred Adkerson, Inc., dba Fred's Bail  
20 Bonding (Examinee), and Examinee has been accorded at least 30 days opportunity to review and  
21 comment on this Report of Examination. A response from the examinee was received on  
22 November 20, 2009.

23 3. The Director of the Division of Insurance has fully considered and reviewed the report,  
24 the examinee response, and any relevant portions of the examiner's work papers to the extent she  
25 considered necessary.

26 CONCLUSIONS OF LAW

1. The written Report of Examination referred to in Finding of Fact No. 1 was issued in  
accordance with Alaska Statute (AS) 21.06.150(b).

2. The actions set forth in Finding of Fact No. 2 were conducted in accordance with  
AS 21.06.150(b).

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
DIVISION OF INSURANCE  
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ANCHORAGE, ALASKA 99501-3567  
PHONE: (907) 269-7900  
FAX: (907) 269-7910  
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1  
2 3. The Director of the Division of Insurance has reviewed the Report of Examination, the  
3 examiner response, and any other relevant work papers as set forth in Finding of Fact No. 3 to the  
4 extent she considered necessary in accordance with AS 21.06.150(b).

5 ORDER

6 IT IS ORDERED

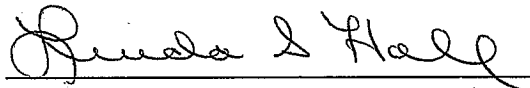
7 1. Pursuant to AS 21.06.150(b)(1), the Report of Examination of Fred Adkerson, Inc., dba  
8 Fred's Bail Bonding (FE09-01) is approved as filed.

9 2. Pursuant to AS 21.06.060, the Report of Examination shall be kept in the Office of the  
10 Director of the Division of Insurance and be open to public inspection.

11 3. The Examinee will implement all recommendations within a reasonable amount of time  
12 but no later than one year from the issue date of this examination report, unless otherwise  
13 recommended in the Report of Examination. Failure to implement compliance recommendations  
14 may result in action against the Examinee for violation of this order.

15 This order is effective December 9, 2009.

16 Dated this 9<sup>th</sup> day of December, 2009 at Anchorage, Alaska.

17 

18 Linda S. Hall, Director  
19 State of Alaska  
20 Division of Insurance

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STATE OF ALASKA  
DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT  
Alaska Division of Insurance

*Sean Parnell, Governor*  
*Emil Notti, Commissioner*  
*Linda S. Hall, Director*

October 27, 2009

Ms. Linda S. Hall, Director  
Division of Insurance  
Department of Commerce, Community,  
and Economic Development  
State of Alaska  
550 West 7<sup>th</sup> Avenue, Suite 1560  
Anchorage, AK 99501-3567

Dear Director Hall:

In accordance with your instructions and authorizations, and in accordance with statutory requirements, a targeted examination has been made of the insurance premium trust fund and affairs of:

Fred Adkerson, Inc.  
dba Fred's Bail Bonding  
2550 Denali St.  
Suite 1302  
Anchorage, AK 99503

Fred Adkerson, Inc., dba Fred's Bail Bonding (Fred's or Agency) is a bail bonding agency authorized under AS 21.27.150, holding license #7986, first issued March 4, 1981, to provide bail for designated individuals guaranteeing court appearance at a specific date and time. Fred's is owned and operated by Mr. Fred Adkerson, President and agent.

The examination covers the period from July 1, 2008, through February 28, 2009.

### **SCOPE OF EXAMINATION**

An examination was performed in accordance with the provisions of AS 21.06.130 through .170, and covered the period from July 1, 2008, to February 28, 2009. The Division has not performed a targeted statutory examination of the Agency previously.

The primary purpose of the examination was to verify that premium trust funds and collateral were being handled in compliance with AS 21.27.350, AS 21.27.360, and related regulations, specifically 3 AAC 23.510 through 3 AAC 23.850.

### **DESCRIPTION OF AGENCY**

#### **Company History**

Fred Adkerson started Fred's Bail Bonding (Fred's) in 1981. Mr. Adkerson is the President and primary agent of the corporation. He is listed as its Compliance Officer/Principal on its license to engage in the business of insurance in Alaska. Fred's has a firm license limited to the sale of bail bond insurance. The regulation of Fred's includes compliance with requirements of Alaska Statute 21.27.350, .360, and Alaska Administrative Code Chapter 23, Article 4 (3 AAC 23.500 to .730) and Article 5 (3 AAC 23.745 to .859).

#### **Management and Control**

The Agency maintains nine full or part-time paid employees consisting of three bondsmen in the Anchorage office, including Mr. Adkerson, one bondsman in Palmer, four office personnel, including one office manager and one clerical staff, and one part-time accountant. Each employee appears knowledgeable about their role in the operation.

Fred Adkerson, as president and compliance officer of Fred's Bail Bonding, maintains the final management authority of the Agency though day-to-day office operations are overseen by the office manager. Because of the size of the Agency and since many of the employees have been working at Fred's for a number of years, there is little active management except as indicated by each individual's responsibilities.

Fred's Bail Bonding is an independent operation with no affiliated or parent organization.

#### **Corporate Records**

The Agency holds license #7986 first issued on March 4, 1981. All records, including its license, contracts with employees, agents, and companies, as well as bank agreements and statements are maintained in the Agency's Anchorage office.

### **Territory and Plan of Operation**

Fred's is authorized to solely transact the bail bond line of business, and only operates in the state of Alaska with three agents located in the Anchorage main office and a fourth agent out of Palmer.

The Agency's surety coverage is provided by International Fidelity Insurance Co. (IFIC or the Surety) which provides the bail bonding forms and surety authorization for the Agency. The agreement with IFIC includes a provision that the Agency will hold harmless the Surety from all losses and claims entered into under the forms provided by the surety. The premium paid to the Surety by the Agency includes a nominal amount that insures the Surety from default of the Agency and any coverage unpaid due to the demise of the Agency. The Agency maintains an indemnity fund pursuant to its agreement with IFIC to be used to make forfeiture payments to the court when necessary.

### **Accounts and Records**

As an agency, Fred's maintains most of its financial records in binders – particularly its daily bond register and collateral receipts while the Agency's accountant utilizes an Excel spreadsheet to produce the financial statements. Bond records are maintained by a basic administration system on the Agency's computer system. The Agency has no integrated system that consolidates the accounting and administration functions of the Agency.

The Agency maintains three checking / savings accounts designated as Fiduciary, Operating, and Trust accounts. All monies received by the Agency, including bond fees, surety premium, commissions and forfeiture collections are deposited into the Fiduciary account. Payments made by the Agency related to the bond coverage itself – bond premiums to the Insurer, forfeiture payments, 1% Build-Up Fund mandated by agreement with IFIC, bond recovery fees, NSF fees – are paid directly out of this fund. Monies are transferred to the Operating account on an as-needed basis and in round amounts throughout the month whenever operating funds are depleted or in danger of being depleted. All office operating expenses are paid out of the Operating account, including lease expenses, payroll, and funding of pension / profit-sharing investment accounts.

Distinctly separate from the Fiduciary and Operating accounts are monies held in the Trust account. These are collateral funds received from individuals when required by a bondsman, but are not reported on the Balance Sheet nor in the Agency's financial statements as they are not considered the Agency's funds. The Agency has sole discretion on the handling of these collateral funds, which totaled almost \$1.3 million at December 31, 2008. These monies are held according to agreements entered into between the Agency and the individual providing the collateral and are maintained by the Agency until an individual's bond is exonerated and the individual comes into the office to pick up the deposited funds.

Additionally, a fourth account referred to as the "1%" or "build-up" fund, and designated the Indemnity Fund under agreement with the Insurer, is maintained and controlled by the Agency. It is held in the name of the Insurer and the Agency uses the funds to pay any excess forfeiture or claim amounts that cannot be paid out of the Fiduciary account. These funds are rarely disbursed, but when they are, monies are transferred into the Agency's Fiduciary account for disbursement to the court.

At month end, the Agency usually has small balances remaining in the Fiduciary and Operating accounts. Excess funds are transferred to the operating account and ultimately to a pension account or profit-sharing money market fund toward month-end.

### FINDINGS AND RECOMMENDATIONS

#### Finding 1 – Bulk transfer of funds between Fiduciary and Operating account

All funds are initially deposited into the Agency's Fiduciary account when received. Monies are then transferred to the Operating Account to pay the operating expenses of the Agency on an "as needed" basis in round amounts. Transfer amounts are not calculated based on the commission amount received pursuant to the premium rate filed and approved by the Alaska Division of Insurance.

3 AAC 23.620 only allows for the removal of commission from the fiduciary account after the commission is earned. The amounts transferred must be based on the specific calculation of appropriate commission amount, and not before the date in which the amount was considered commission. The commission calculation and the date the funds are available must be documented.

While the Agency considers commission amounts earned immediately by meeting the criteria for earned premium in 3 AAC 23.620(b), commissions removed from the Fiduciary account to cover the operating costs of the Agency were not calculated according to the premium rate filing submitted to the Alaska Division of Insurance and last approved on August 19, 1994.

Recommendation: It is recommended that the Agency calculate and transfer only amounts from the Fiduciary account to the Operating account pursuant to the commission rate included in the most recent division-approved rate filing and in accordance with the regulation on earning of commissions, 3 AAC 23.630.

#### Finding 2 – Premium fund not appropriately segregated

Pursuant to 3 AAC 23.640, premium monies received may only be commingled with funds listed under AS 21.27.360(d) - premium taxes and return premiums with additional money for the



purpose of advancing premiums, establishing reserves for the payment of return premiums, or reserves for receiving and transmitting premium or return premium money. It was noted that all funds are initially deposited into the Agency's Fiduciary account when received. This account holds premiums, commissions, "build-up" funds, expense reimbursements, forfeiture reimbursements, and pending forfeiture payments.

Recommendation: It is recommended that the Agency only deposit funds into the fiduciary account that are allowed by Alaska statute and regulations.

Finding 3 – Master list of collateral received not maintained by Agency

Based on determination of the bonding agent, a covered individual may be required to post collateral along with the applicable premium charged for the bond coverage. Collateral may be in the form of either cash or "hard" collateral such as vehicle titles, iPods, jewelry, or other acceptable items. Receipts for collateral are maintained in the bond folders and are in compliance with 3 AAC 23.820. Additionally, cash collateral received from individuals is verified and placed into a separate account pursuant to 3 AAC 23.800. However, the Agency was not able to detail amounts held in the Trust account to the individuals to which they belong. Hard collateral is held in the Agency office in a locked cabinet. The Agency is not able to list the hard collateral it is holding and to whom it should be released if the bond is exonerated.

Recommendation: It is recommended that the Agency maintain a master list of all collateral, both cash and "hard collateral," received by the Agency that indicates the amount received and/or value, and owner of the collateral in compliance with 3 AAC 23.800. As a fiduciary, the Agency should periodically reconcile the lists to the cash and items held to verify that the collateral is in the Agency's possession.

Finding 4 – Abandoned collateral not escheated to state

As noted above, the Agency does not maintain a master list of collateral – cash or other forms – reconciled to the value reported on hand. Due to this, an aging of collateral is also not available to allow the Agency to determine amounts required to be escheated to the state after it has been determined abandoned. A random sample revealed collateral that was still being held by the Agency more than 2½ years following exoneration of the bond. 3 AAC 23.600(a)(3) requires an Agency to investigate fiduciary money held for more than 120 days and pay the money to the person entitled to the money.

Additionally, it was noted that at least one exonerated bond on the Agency's system was more than three years old where cash collateral had been received but had not been returned to the individual. Pursuant to 3 AAC 23.850, if collateral, excess collateral on forfeiture, or excess payment of premium being held by a licensee or surety is not claimed or taken away within one year after the termination of liability under the bail bond, the licensee or surety shall treat the

collateral, excess collateral, or excess payment, in the manner provided in AS 34.45, the Uniform Unclaimed Property Act.

Recommendation: It is recommended that the Agency produce and maintain reports that allow the Agency to investigate fiduciary monies held for more than 120 days and determine which collateral has been abandoned according to 3 AAC 23.850. It is recommended that the Agency prepare reports as required by AS 34.45.280 (Holder's Report) and escheat abandoned property to the state pursuant to AS 34.45.320 (Payment or Delivery to Administrator).

Finding 5 – Rate filing not updated to recognize current amended agreement with Insurer

A review of the Agency's revenue receipts indicated premium amounts were being calculated and forwarded in compliance with regulations and pursuant to the agreement with its surety, International Fidelity Insurance Co. (IFIC).

It was noted the latest rate filing received by the state from IFIC was made in 1994. In this rate filing, the insurer indicated the premium rate for coverage is 10% of the bond amount with 2% of the bond amount as the bond company charge and the remaining 8% the Agency service fee.

The current agreement between the Insurer and Agency as amended in 2002 indicated a different partitioning of the collections received by the Agency. Under the latest amended agreement, the Agency may charge premium equal to 10% of the bond amount which is classified into three partitions: 1.3% of the coverage amount to be paid to the Insurer, 1.0% placed into a "build-up" indemnity fund pursuant to paragraph 8 of the agreement from which the Agency pays forfeiture claims, and the remaining 7.7% for the Agency service fee, or commission.

The current rate filing with the state does not reflect the apportionment of revenue received by the Agency under the 2002 amended agreement with its insurer.

Recommendation: It is recommended that the Insurer make an updated rate filing with the state that identifies the distribution of amounts authorized to be collected by the Agency.

Finding 6 – Pre-numbered bond document not provided to defendant upon release

Pursuant to 3 AAC 23.770(a), a licensee or surety shall, at the time of obtaining the release of a defendant on bail, deliver to the defendant and to any other person with whom bail negotiations were conducted, a pre-numbered document that describes the bail bond transaction.

Though a receipt for payment of the bond is given to the co-signer or provider of the funds, the defendant themselves is not given a copy of the bond form upon release. The surety bond, which consists of the pre-numbered "power" form is prepared in triplicate with the Original delivered to

Fred's Bail Bonding, Inc.  
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the court to release the defendant, the 1st copy sent to the Surety as part of the Agency's report, and the 2nd copy retained by the Agency in its bond file. According to office personnel, a defendant may request a copy of the bond form at the Agency office, but a copy is not immediately available for the individual at the time of signing.

Recommendation: It is recommended that the Agency provide a copy of the pre-numbered bond form to the defendant immediately upon release.

Finding 7 – Clear identification of fiduciary funds not reported in financial statements

Money required to be held in a fiduciary capacity must be clearly identified in a licensee's financial statement under 3 AAC 23.580. The Agency reports numerous lines of assets in its financial statements, however amounts held in a fiduciary capacity, including amounts held under indemnity funds, are not clearly identified on the statement.

Recommendation: It is recommended that the Agency provide a clearer identification of funds held in a fiduciary capacity within its financial statements.

Fred's Bail Bonding, Inc.  
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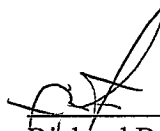
**CLOSING**

The examiners wish to express appreciation for the courteous cooperation and assistance given to them during this examination.

In addition to the undersigned, the following examiners participated in the examination:

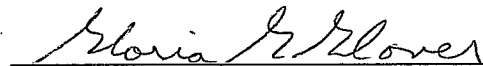
Douglas Hartman, AFE.

This report is hereby respectfully submitted,



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Richard B. Foster, CFE  
Insurance Financial Examiner II  
Examiner-in-Charge



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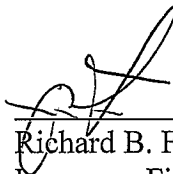
Gloria G. Glover, CFE  
Chief Financial Examiner

Fred's Bail Bonding, Inc.  
FE 09-01

AFFIDAVIT

Anchorage, Alaska )  
December 01, 2009 )  
STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT )

We, the undersigned, being duly sworn, do verify that the report of examination of Fred Adkerson, Inc., dba Fred's Bail Bonding, holding License #7986, is true to the best of our knowledge and belief.

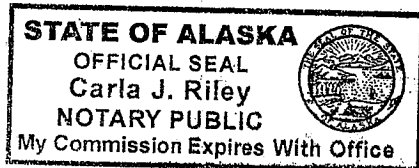


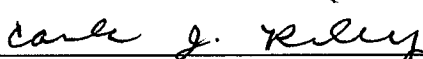
Richard B. Foster, CFE  
Insurance Financial Examiner



Gloria G. Glover, CFE  
Chief Financial Examiner

Subscribed and sworn to before me this 1 day of December, 2009.



  
Notary Public for the State of Alaska

My commission expires: with office