

1 STATE OF ALASKA  
2 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
3 DIVISION OF INSURANCE  
4

5 In the Matter of: )  
6 Progressive Casualty Insurance Company. )  
7

8 Case No. D98-04

9 ACCUSATION

10 Marianne K. Burke, Director, Division of Insurance ("the division"),  
11 Department of Commerce and Economic Development, State of Alaska, states as  
12 follows:

13 1. Progressive Casualty Insurance Company ("Progressive") is an  
14 admitted insurer transacting insurance in the State of Alaska under Certificate of  
15 Authority No. 829. Progressive is authorized to sell all casualty lines of insurance.

16 2. As an admitted insurer, Progressive is required to file with the  
17 division for approval before use all policy forms and endorsements delivered or  
18 issued for delivery in this state.

19 3. In 1997, Progressive issued to Northrim Bank, an Alaskan  
20 insured, a three-year prepaid directors' and officers' insurance policy, policy  
21 number 454845403. That policy contained an endorsement with a year 2000  
22 exclusion. This endorsement had not been approved by the division prior to its  
23 issuance to Northrim Bank.

24 4. Northrim Bank is a client of Alaska insurance producer Ribelin  
25 Lowell & Company ("Ribelin Lowell"). Brenda Patterson of Ribelin Lowell  
26 contacted Progressive regarding the year 2000 exclusion and was told that

1 Progressive had the division's tentative approval to use the exclusion. Linda Hall  
2 of Ribelin Lowell subsequently notified the division regarding Progressive's use of  
3 the year 2000 exclusion. The division confirmed that no such tentative approval  
4 had been given.

5 5. On May 14, 1998, John Ference, the division's filings review  
6 supervisor, wrote to Progressive to advise Progressive that Alaska statutes do not  
7 provide for tentative approval of a form and that the division had no record of  
8 approving any Progressive form containing a year 2000 exclusion.

9 6. On June 12, 1998, Robert K. F. Mann of Progressive responded  
10 to Ference's letter. In this letter, Mann represented that "[a]t present none of the  
11 Directors' and Officers' Liability Insurance Policies issued by Progressive Casualty  
12 Insurance Company contain a year 2000 exclusion." Mann further represented  
13 that until Progressive receives approval of such an exclusion, it will refrain from  
14 using this exclusion with directors' and officers' liability insurance policies in  
15 Alaska.

16 7. On or about June 12, 1998, John Ference contacted Linda Hall  
17 at Ribelin Lowell to confirm whether the exclusion had been removed from  
18 Northrim's policy. Hall advised Ference that Progressive had not amended the  
19 policy to remove the exclusion. This fact was confirmed during the course of the  
20 division's market conduct exam, which is now in progress. Accordingly,  
21 Progressive's June 12, 1998 letter falsely represented that no Alaska policies  
22 contained the year 2000 exclusion.

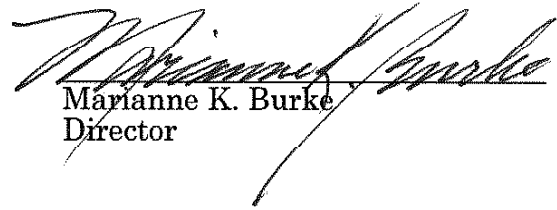
23 8. Progressive has violated AS 21.42.120 by using an unapproved  
24 form on policies delivered or issued for delivery in the state, which is a basis to  
25 suspend or revoke an insurer's certificate of authority under AS 21.09.150(a) and  
26 to impose civil fines under AS 21.90.020. The false statements by Progressive's

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1 staff regarding tentative form approval and use of the unapproved exclusion on  
2 Alaskan policies demonstrates untrustworthiness and also is a basis to discontinue  
3 Progressive's authority to transact insurance in this state under AS 21.09.100.

4 WHEREFORE, the division seeks to suspend Progressive's certificate  
5 of authority and/or to impose civil fines in the amount up to \$2500 per violation of  
6 the insurance code.

7 DATED this 10th day of July, 1998 at Anchorage, Alaska.

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10 Marianne K. Burke  
11 Director  
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