

1 STATE OF ALASKA

2 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

3 DIVISION OF INSURANCE

4
5 In the Matter of:)
6)
7 KELLY ASSOCIATES, INC.)
8)
9 Licensee.)
_____)

10 Case No. D 00-05

11 STIPULATED AGREEMENT AND ORDER

12 The Division of Insurance, (division) and Kelly Associates, Inc. (KAI), the
13 licensee in this case, stipulate and agree that the unlicensed activity that occurred before KAI
14 applied for and the division issued license #18386 to it and license #18387 to John D.
15 Harrington as its Principal/Compliance Officer is resolved as follows:

16
17 1. KAI is an insurance firm that specializes in providing armored car cargo
18 liability insurance coverage to independently owned and operated armored car companies. Kyle
19 Patterson, president of SecureTrans Armored, Inc. of Anchorage, Alaska, learned about KAI
20 and its services at an annual meeting of the Independent Armored Car Operator's Association in
21 Orlando, Florida. Mr. Patterson subsequently approached KAI in Florida on September 28,
22 1998 to discuss his cargo insurance requirements. KAI admits that, although the firm did not
23 initially solicit insurance business or advertise its insurance products in Alaska, KAI did
24 prepare a proposal for SecuredTrans, which Mr. Patterson accepted while he was in Alaska.
25 KAI bound the coverage with Underwriters at Lloyd's, London for which KAI has binding
26

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1 authority. This transaction involved surplus lines insurance and required at least one person
2 involved with the placement to hold an Alaska surplus lines broker license. The coverage was
3 effective October 17, 1998, the renewal date for SecureTrans' previous insurance coverage.
4
5 KAI began the process of obtaining an Alaska non-resident insurance license through a
6 licensing service on October 16, 1998.

7 2. KAI admits that most of the activity described in paragraph 1 occurred
8 before it had even applied for an Alaska insurance license, in violation of AS 21.27.010.
9 Although KAI began the process to obtain a license in October 1998, the division did not
10 receive an application from KAI for an Alaska license until January 20, 1999 and the producer
11 licenses were issued January 22, 1999.
12

13 3. Since KAI did not involve a producing broker or surplus lines broker in
14 the SecureTrans placements, on December 30, 1999 the division notified KAI that it also
15 needed to hold an Alaska surplus lines broker license, for which it applied on or about May 30,
16 2000 and which was issued on June 30, 2000.
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18 4. KAI admits that the policy for SecureTrans was renewed on October 17,
19 1999 for a year. This renewal occurred before KAI was properly licensed as a surplus lines
20 broker in Alaska, which is also a violation of AS 21.27.010.
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22 5. KAI agrees to pay a civil penalty under AS 21.27.440(a) of \$4,200,
23 which equals the amount of commissions it earned for the unlicensed activity that occurred
24 between October 17, 1998 and June 30, 2000, with \$3,700 suspended. In agreeing to suspend
25 \$3,700 of the civil penalty, the division has considered the following factors:
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a) KAI has cooperated with the division at all times to work to resolve this matter; specifically, by applying and obtaining a surplus lines broker license after the division notified KAI that it was required to hold one.

b) KAI may have reasonably believed that licensure in Alaska was not required since SecureTrans contacted members of KAI outside of Alaska, KAI does not solicit insurance business in Alaska, and KAI has only placed one policy and its renewal with no intention of doing additional business in Alaska.

c) KAI has remitted \$652.09 for the three percent premium taxes owed to Alaska for the surplus lines placements in 1998 and 1999, in addition to incurring considerable expense (\$1,761) to obtain the statutorily-required licenses to transact business in compliance with Alaska law, all for one insured.

The unsuspended portion of the penalty is due no later than 30 days from the date this agreement and order is signed by the director.

6. In the event KAI violates the insurance code or applicable regulations during the next two years, the suspended portion of the fine referenced in paragraph 6 will be reinstated. KAI also will be subject to any and all sanctions authorized by the insurance code including imposition of additional fines or penalties.

7. By signing this agreement, KAI understands and agrees that any failure to comply with the conditions of this agreement will be grounds to revoke, suspend, or not renew Alaska insurance licenses #18386 and #18387.

8. KAI understands that this agreement is not binding on the parties unless and until the director signs the order approving the agreement.

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DATED: Sept 21, 2000

DIVISION OF INSURANCE

By: Linda Brunette
Linda Brunette
Licensing Supervisor

DATED: Sept 5, 2000

KELLY ASSOCIATES, INC.

By: John D. Harrington
John D. Harrington
President and
Principal/Compliance Officer

Approved as to form and content:

DATED: Sept 26, 2000

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: Virginia A. Rusch
Virginia A. Rusch
Assistant Attorney General

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.

DATED this 29th day of September, 2000.

Robert A. Lohr
Robert A. Lohr
Director of Insurance