

STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
3601 C STREET, SUITE 1324
ANCHORAGE, ALASKA 99503-7900
PHONE (907) 269-7900
FAX (907) 269-7910
TDD (907) 465-5437

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

4 CEASE AND DESIST ORDER D 01-19

5 TO: Spenard Builders Supply, Inc.
6 Att: Ed Waite, President
7 840 K Street
8 Anchorage, AK 99501

9 The Division of Insurance has determined that you have been transacting insurance in Alaska,
10 in violation of Alaska law.

11 Specifically, you have been selling a product called a "patronage cash refund," which is offered
12 by 100% Money Back Guarantee. This product is insurance as defined in AS 21.90.900(23).
13 The organization underwriting and issuing these contracts is acting as an insurer and must be
14 authorized to do so under AS 21.09. In absence of this authority, the organization is acting as
15 an unauthorized insurer and any person selling or acting as an administrator of the contracts on
16 behalf of the organization is in violation of AS 21.33.037. Further, a person who sells, solicits,
17 negotiates, effects, procures or delivers a policy of insurance in this state must be licensed as an
18 insurance producer under AS 21.27. AS 21.27.010; AS 21.90.900(24). Failure to hold the
19 required license is a violation of AS 21.27.010.

20 "Insurance" means a contract whereby one undertakes to indemnify another or pay or
21 provide a specified or determinable amount or benefit upon determinable contingencies.
22 AS 21.90.900(23)

23 "Transact" with respect to insurance includes

- 24 (A) solicitation and inducement;
25 (B) preliminary negotiations;
26 (C) effectuation of a contract of insurance;
(D) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it. AS 21.90.900(41)

A person acting on behalf of an unauthorized insurer or selling insurance without a license is subject to civil penalties for violating the insurance code.

AS 21.27.440(a) states in part:

In addition to any other penalty provided by law, a person that the director determines under AS 21.06.170 - 21.06.240 has violated the provisions of this chapter is subject to

1 (1) a civil penalty equal to the compensation promised, paid, or to be paid, directly or
2 indirectly, to a person in regard to each violation;

3 (2) either a civil penalty of not more than \$10,000 for each violation or a civil penalty
4 of not more than \$25,000 for each violation if the director determines that the person
5 wilfully violated the provisions of this chapter

6 AS 21.33.065 states:

7 (a) A person other than an insured, who in this state represents or aids a nonadmitted
8 insurer in violation of AS 21.33.037, is subject to a civil penalty of not more than
9 \$50,000 in addition to applicable criminal penalties and other penalties prescribed in
10 this title.

11 (b) In addition to any other penalty provided, a person who violates a provision of this
12 chapter is subject to a civil penalty of not more than \$10,000 for the first offense and not
13 more than \$100,000 for each succeeding violation.

14 Further, a violation of the insurance code is considered a fraudulent insurance act under
15 AS 21.36.360(p)(1), which may be prosecuted as a class B misdemeanor under
16 AS 21.36.360(q).

17 You are hereby ordered to cease and desist from transacting insurance in this state in violation
18 of the insurance code. Continued transaction of insurance in Alaska after receipt of this order
19 will be considered a wilful violation and subject to appropriate action under the insurance code,
20 as well as possible criminal remedies.

21 This order is effective immediately.

22 Dated at Anchorage, Alaska this 22nd day of August, 2001.

23
24
25
26


Robert A. Lohr
Director