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STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES

In the matter of:)	ORDER NO: 15-521-C
JIM KELLY INSURANCE AGENCY)	ORDER TO PAY LATE FILING FEES,
NMLS #308380, and)	IMPOSING CIVIL PENALTIES
JAMES L.H. KELLY,)	AND
NMLS # 320947)	CONSENT TO ORDER
)	
Respondents.)	
)	

The Department of Commerce, Community, and Economic Development, Division of Banking and Securities (“Department”) has conducted an examination of the business operations of Jim Kelly Insurance Agency (“Insurance Agency”) and James L.H. Kelly (“Kelly,” collectively “Respondents”) and has determined that Respondents violated certain provisions of AS 06.60 et seq. (“the Alaska Secure and Fair Enforcement for Mortgage Licensing Act of 2010 – the Alaska SAFE Act”).

Respondents agree that the Department has jurisdiction over Respondents and this matter pursuant to the Alaska SAFE Act.

Respondents wish to resolve and settle this matter with the Department. As evidenced by the authorized signature on this Order, Respondents consent to the entry of this Order to pay late fees and imposing civil penalties based on the Conclusions of Law and Order. Respondents waive their right to hearing under AS 44.62 et seq. (the Alaska Administrative Procedure Act) and the Alaska SAFE Act.

I. FACTS

1. Insurance Agency is a corporation (entity no. 132221) organized under the laws of

1 the State of Alaska, and has a physical address of 1401 Turner Street, Fairbanks, AK 99701.

2 2. On September 2, 2010, the Department issued an Alaska Mortgage Broker/Lender
3 license (no. AK308380) to Insurance Agency.

4 3. Kelly is listed as a control person of Insurance Agency. The Department issued
5 mortgage loan originator license number 320947 to Kelly in 2010.

6 4. Mortgage licensees must file annual reports with the Department by March 15 of the
7 year following an annual period of licensure. Kelly is the individual responsible for filing the
8 reports with the Department.

9 5. On February 25, 2015, the Department sent an email to Kelly, as the only designated
10 control person and assigned contact person, with a reminder that Insurance Agency was
11 required to file its annual report for 2014 with the Department by March 16, 2015. Kelly
12 filed his 2014 annual report on September 11, 2015, 175 days late. Previously, Insurance
13 Agency filed the annual report late for 2010, 2011, and 2013.

14 6. Mortgage licensees must file annual reports with the Department by March 15, and
15 the Department is authorized to assess a late fee of \$25 per day for annual reports that are not
16 filed on time. Insurance Agency has filed four late annual reports since 2010, totaling 205
17 days late.

18 ANNUAL REPORTS

19

Year	Date Due	Date Filed	Days Late
2010	03/15/2011	03/17/2011	2
2011	03/15/2012	04/04/2012	19
2013	03/17/2014 ¹	03/26/2014	9
2014	03/16/2015 ²	09/11/2015	175

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23 ¹ March 15, 2014 was on a Saturday, so the report was due by Monday, March 17, 2014.

24 ² March 15, 2015 was on a Sunday, so the report was due by Monday, March 16, 2015.

1 7. Mortgage licensees must submit reports of condition of the licensee to the Department
2 in the form prescribed by the National Mortgage Licensing System and Registry (“NMLS”).
3 The NMLS requires licensees to submit quarterly reports of condition known as Mortgage
4 Call Reports (“MCRs”). The NMLS mandates that MCRs be filed after each calendar quarter
5 by May 15, August 14, November 14, and February 14. Insurance Agency has filed five late
6 MCR quarterly reports since 2011, totaling 181 days late.

7 MORTGAGE CALL REPORTS (MCRs)

Year	Quarter	Date Due	Date Filed	Days Late
2011	Q1	05/15/2011	06/09/2011	25
2011	Q3	11/14/2011	12/15/2011	31
2011	Q4	02/14/2012	02/20/2012	5 ³
2012	Q4	02/14/2013	06/13/2013	119
2014	Q1	05/15/2014	05/16/2014	1

13 **II. CONCLUSIONS OF LAW**

14 1. Kelly is a “control person” of Insurance Agency as that term is defined in AS
15 06.60.990(4) and is responsible for filing required reports with the Department.

16 2. Respondents violated AS 06.60.100(a) and 3 AAC 14.410 by filing Insurance
17 Agency’s annual report late in 2010, 2011, 2013, and 2014, a total of 205 days late. Under 3
18 AAC 14.414, the Department may assess a fee of \$25 per day for reports filed late.

19 3. Respondents violated AS 06.60.100(c) by filing five quarterly MCRs late totaling 181
20 days. Under 3 AAC 14.414, the Department may assess a fee of \$25 per day for reports filed
21 late.

22 4. Respondents are subject to a civil penalty under AS 06.60.100(b) and AS 06.60.420

23 _____
24 ³ Respondent paid \$125 for this late filing on March 5, 2012.

1 for violating AS 06.60.100(a) and (c) and 3 AAC 14.410.

2 **III. ORDER**

3 Pursuant to the Alaska SAFE Act and on the basis of the Findings of Fact,
4 Conclusions of Law and Respondents' consent to the entry of this Order, the Department
5 ORDERS Respondents to:

6 1. Pay late fees of \$25 per day for each day late under AS 06.60.100 and 3 AAC 14.414
7 for \$5,125 for filing four late annual reports and \$4,400 for filing four late MCR reports⁴, for
8 a total of \$9,525. These late fees are suspended for a period of three years.

9 2. Pay a civil penalty under AS 06.60.420 in the amount of \$3,150. This amount was
10 calculated at \$350 for nine late reports. This amount is immediately due to the Department.

11 3. Comply with all provisions of the Alaska SAFE Act, including associated regulations.

12 If Respondents fail to comply with any term or condition of this Order, including failure to
13 comply with any future filing or reporting deadlines, the suspended portion of the late fees
14 will be immediately due.

15 4. Respondents are jointly and severally liable for complying with the terms of this order
16 including payment of the civil penalty.

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24 ⁴ Not including the late 2011 Q4 MCR, for which respondents already paid \$125.

1 5. This Order is a publicly disclosable document and is reportable to the NMLS.

2 **IT IS SO ORDERED.**

3 Chris Hladick, Commissioner
4 Department of Commerce, Community
and Economic Development

5
6 October 5, 2015
Date

/s/ Kevin Anselm
Kevin Anselm, Director
Division of Banking and Securities

8
9 **Consent to Entry of Order**

10 I, James L. H. Kelly, state that I am the Owner of Jim
11 Kelly Insurance Agency (“Respondent”); that I am authorized to act on its behalf; that I have
12 read the foregoing Order; and that I am aware of the right to a hearing and appeal in this
13 matter, and have waived the same.

14 Respondent admits to the jurisdiction of the Department of Commerce, Community
15 and Economic Development, Division of Banking and Securities (“Department”) and further
16 consents to entry of this Order by the Department as settlement of the issues contained in this
17 Order. Respondent admits violation of the Alaska SAFE Act.

18 Respondent understands that the Department reserves the right to take further actions
19 to enforce this Order or to take appropriate action upon discovery of other violations of the
20 Alaska SAFE Act, and that Respondent will fully comply with the terms and conditions of
21 this Order, the Alaska SAFE Act and associated regulations.

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1 Respondent enters into this Order voluntarily and understand that this Order is a public
2 document and is reportable to the NMLS.

3
4 9/30/2015
Date

/s/ James L. H. Kelly
Jim Kelly Insurance Agency

5
6 By: James L. H. Kelly
Title: Owner

7 SUBSCRIBED AND SWORN TO before me this 30 day of September, 2015 at
8 Fairbanks, Alaska.

9
10 /s/ Elizabeth Campbell
Notary Public in and for Alaska

11 Elizabeth Campbell
Notary Printed Name
12 My commission expires: 6-17-19

13
14 **Consent to Entry of Order**
James L.H. Kelly

15 I, James L.H. Kelly, hereby acknowledge that I have read the foregoing Order; and
16 that I am aware of the right to a hearing and appeal in this matter, and have waived the same.

17 I admit the jurisdiction of the Department of Commerce, Community and Economic
18 Development, Division of Banking and Securities (“Department”) and further consent to
19 entry of this Order by the Department as settlement of the issues contained in this Order. I
20 admit violation of the Alaska SAFE Act.

21 I understand that the Department reserves the right to take further actions to enforce
22 this Order or to take appropriate action upon discovery of other violations of the Alaska
23 SAFE Act, and that I will fully comply with the terms and conditions of this Order, the
24 Alaska SAFE Act and associated regulations.

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I enter into this Order voluntarily and understand that this Order is a public document
and is reportable to the NMLS.

9/30/2015
Date

/s/ James L. H. Kelly
James L.H. Kelly

SUBSCRIBED AND SWORN TO before me this 30 day of September, 2015 at
Fairbanks, Alaska.

/s/ Elizabeth Campbell
Notary Public in and for Alaska

Elizabeth Campbell
Notary Printed Name
My commission expires: 6-17-19

Contact Person:
Kristy Naylor
Chief of Enforcement
(907) 269-7675