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Austin bond company fined $1.2 million

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An Austin-based bail bond company has found itself in $1.2 million worth of trouble in Colorado.
The Colorado Division of Insurance (DOI) has revoked Minnesota Surety and Trust Company's Certificate of Authority and fined it $1.2 million for altering more than 4,000 documents.

The company was required to pay $200,000 of the fine to the Colorado DOI by May 10. If that payment is made, the remaining $1 million would be forgiven. The company and its president, Peter Plunkett, must not be involved in any insurance-related business in Colorado for five years. Peter Plunkett said Friday morning the $200,000 fine has been paid.

Paula Sisneros, director of compliance and investigation with the Colorado DOI, said the company was not only altering documents, but also keeping their files in a disorderly manner. Some paperwork was provided to the DOI in a duffel bag, he said.

"Their record keeping was so poor they were unable to provide us with the records we needed," Sisneros said. "It's a requirement of Colorado to retain records and provide records upon request so we can ensure (they) are complying with Colorado insurance law."

The issue dates back to December 2010, when the Colorado DOI informed the company that it would be conducting a market conduct examination (similar to an audit, but not based on financial information) of its bail bond business in Colorado. The DOI asked for certain documents to be ready for examination by Feb. 23, 2011, and Minnesota Surety was told not to alter any documents in the meantime. On Feb. 22, though, the company asked for an extension.

As of Feb. 24, Minnesota Surety had failed to provide several documents, including a list of agents by commission paid, a detailed list of bonds issued and a list of bond premium receipts and collateral receipts, according to court documents.

After granting the extension, DOI officials increased the scope of the examination from one year of records to two. Minnesota Surety asked for another extension in March, but was unable to provide all of the requested information by the new deadline.

Plunkett said some of the files were unavailable because two former agents had them, and the company was unable to reach the agents because they had moved out of state and did not provide contact addresses.
"We did the best we could. All of the files I could get people to bring in, were brought in," Plunkett said.
Interim Insurance Commissioner John Postolowski saw it differently. He said the company exhibited "flagrant disregard for Colorado insurance law."

"Even after repeated demands, Minnesota Surety failed to provide the data and information our investigators requested, which was necessary to complete an examination of the company," Postolowski said in a press release.

Sisneros said that was when the company provided a portion of the requested documents in disarray, with some thrown in a duffel bag.

"It is the first time that has occurred during a market conduct exam," Sisneros said of the duffel bag. "We couldn't even identify where to go to get the information we needed."

Colorado DOI Director of Consumer Education Cameron Lewis said the issue is not only about the documents, but about consumer trust.

“(They were) careless in record keeping, delivered records in no logical order in a duffel bag … we need to know: Were they doing a good job with the public trust? This is not just about paperwork,” Lewis said. Plunkett said the duffel bag was presented to the DOI by an agent the company had problems with in the past.

“Normally you would assume the agent would do this in a proper manner, in boxes and organized,” he said. “One of our agents that we have had problems with decided to put his files in a duffel bag and bring them in in an unorganized fashion. That was not my doing; that was the agents doing.”

That particular agent had previously been suspended and has since been terminated, along with the rest of the Colorado agents upon revocation, Plunkett said.

According to Lewis, 11 employees or officers of Minnesota Surety were subpoenaed and testified that numerous documents had been altered. More than 4,000 documents were altered with stamps that made the records seem like they were stamped in 2010.

Court documents explain some of these stamps as “translation stamps,” which signify that a non-English speaker had documents translated into his or her native language prior to signing. Several documents were stamped after the fact to show that translation had been used.

Plunkett said about 90 percent of the company’s Colorado consumers were English speakers and did not require translation.

“We were merely trying to put the stamps on the forms so that they had the proper language on them that the statute required,” he said.

Plunkett said all document alterations were done in accordance with a Colorado regulation that states: “The commissioner may wave or reduce a fine or penalty for violation for which successful corrective activities were initiated and implemented by the regulated entity or person before the violation was noted in examination or otherwise brought to the attention of the division. Such corrective activities may include remedial procedures put in place to assure that the violation does not recur ….”

None of the document alterations were meant to defraud consumers or deceive the Colorado DOI, Plunkett said.

“What (the DOI) is mad about is they thought we were trying to deceive them by updating our records,” he said. “The problem with the Colorado regulatory scheme is that it is so confusing that no one understands how to comply with the laws. This is not about consumer protection. It’s only about fining to raise money.” Lewis said Colorado law requires bail bond agents and surety companies to have written contractual agreements on file. Testimony showed that the company had created and signed contractual agreements in 2011 and made them seem like they were from 2010. According to court documents, “… at least one of those contracts (was) back dated and signed by an agent with a date prior to that agent becoming a licenses bail bond agent in the state of Colorado.”

However, Plunkett said he never intended to make any document seem like it was from 2010. Because of the corrective activity regulation, he was under the impression that the document updates were legal, he said.

“We never redacted, we never destroyed documents, we never forged signatures, we didn’t hide documents,” he said. “We were open and honest with the Division when they asked for information, and we told them everything. We never actually handed them documents with a representation that this is what they looked like in 2010.”

The $1.2 million fine and revocation of the company's license is the result of a settlement in the case. According to Plunkett, the Colorado DOI was not even going to revoke his Certificate of Authority until he asked if he could surrender it. He said the DOI told him he could pay a $600,000 fine with the other $600,000 stayed, and he would still be able to conduct business in the state. However, a $600,000 fine could have put the company out of business, so he chose to take the lesser fine and revocation instead. "In order for us to pay a lesser fine — $200,000 — we were told we had no alternative but to agree to a revocation of our Certificate of Authority in Colorado," Plunkett said.

Sisneros said the poor record-keeping could be an indication of other issues within the company. Because of the incomplete and altered records, Sisneros said problems could arise for consumers. For instance, if the company did not have complete collateral records for someone, they could encounter a roadblock in having their collateral returned once their bond is paid back.

"We've always returned collateral when it needs to be returned," Plunkett said. "We've always returned premiums when it needs to be returned. We've never had a consumer lose any money as a result of our agents or company."

However, if a consumer does have an issue, Sisneros said that will need to be handled by Minnesota Surety and Trust.

"We specifically preserved the rights of any consumer in Colorado that had been aggrieved by the company, so they'll have to work with any consumer if they have a problem," Sisneros said.

Minnesota Surety and Trust is located at 107 West Oakland Ave. Its website states the company is licensed in Minnesota, North Dakota, South Dakota, Utah and Montana. Plunkett said Minnesota is doing a market conduct examination on the company, but because Minnesota laws are different than Colorado, the exam has been ongoing for two years already.