

FILED

SEP 15 2014



Docketed by EW

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF:

HEATHER SUE ONUSKA

CASE NO.: 151045-14-AG

ORDER OF PERMANENT REVOCATION

THIS PROCEEDING came on for final agency action and the Chief Financial Officer or his designee, having considered the record in this case and the Administrative Complaint and being fully advised in the premises, finds that:

1. Heather Sue Onuska, license number W058213, is currently licensed in this state as a life including variable annuity and health agent and as a general lines (property and casualty) agent.

2. On May 1, 2014, an Administrative Complaint (the "Complaint"), which is attached to this Order of Permanent Revocation as "Exhibit A," was filed against Heather Sue Onuska. The Complaint alleged that Heather Sue Onuska misappropriated premium payments from two consumers aged 65 or older and that she failed to update her home, business and mailing addresses with the Department within 30 days of changing one or more of those addresses.

3. Heather Sue Onuska was notified in the Complaint of the right to request a proceeding in accordance with sections 120.569 and 120.57, Florida Statutes, and that failure to answer the Complaint or to request a proceeding within twenty-one (21) days would result in the imposition of a penalty.

4. In accordance with section 120.60(5), Florida Statutes, the Complaint was served upon Heather Sue Onuska by publication in The Sanford Hearld on July 2, 2014, July 9, 2014, July 16, 2014, and July 23, 2014. A true and correct copy of the certification of publication is attached to this Order of Permanent Revocation as "Exhibit B."

5. Heather Sue Onuska failed to answer the Complaint or to request a hearing in accordance with sections 120.569 and 120.57(1), Florida Statutes, or section 120.57(2), Florida Statutes.

6. Based upon Heather Sue Onuska's failure to respond to the Complaint or to request a hearing, the Chief Financial Officer finds that an Order of Permanent Revocation should be entered in this case.

FINDINGS OF FACT

7. The factual allegations in the Complaint are deemed admitted, and are fully incorporated herein by reference, and are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

8. Based upon the Findings of Fact adopted herein, the Department concludes that Heather Sue Onuska violated the specific statutes and rules charged in each count of the attached Complaint and the Department adopts the violations charged in each count of the Complaint as the Conclusions of Law in this case.

PENALTY IMPOSED

9. The failure of Heather Sue Onuska to answer the Complaint or to request a proceeding, taken together with the Findings of Fact and Conclusions of Law adopted herein, constitute grounds for the Chief Financial Officer to permanently revoke Heather Sue Onuska's

insurance licenses and appointments for the following reasons: The penalty for each of the first two counts set forth in the Administrative Complaint is a 12-month suspension. The penalty for the third count is a 3-month suspension. Pursuant to Rule 69B-231.040(2), *Florida Administrative Complaint*, the total penalty is a 27-month suspension. Because this exceeds a 24-month suspension, the appropriate final penalty is revocation of her license. Rule 69B-231.040(3)(d), *Florida Administrative Code*. Because the revocation results from the sale of insurance products to persons 65 years of age or older, the Department may not hereafter grant or issue any license to Heather Sue Onuska in accordance with Section 626.641(3)(b), Florida Statutes.

IT IS THEREFORE ORDERED that:

(a) All licenses, appointments and eligibility for licensure heretofore issued to Heather Sue Onuska, within the purview of the Department of Financial Services, are hereby PERMANENTLY REVOKED.

(b) Heather Sue Onuska does not have the right to apply for reinstatement of her licenses or appointments under the Florida Insurance Code. The Department shall not reinstate any of Heather Sue Onuska's licenses or appointments or reinstate eligibility to hold such licenses or appointments.

(c) Heather Sue Onuska shall not engage in or attempt or profess to engage in any transaction or business for which a license or appointment is required under the Florida Insurance Code or directly or indirectly own, control, or be employed in any manner by any insurance agent or agency or adjuster or adjusting firm.

(d) Within ten (10) calendar days of the issuance of this order, Heather Sue Onuska shall return to the Department of Financial Services, Bureau of Licensing, 200 East Gaines Street, Tallahassee, Florida 32399-0319, all licenses issued pursuant to the Florida Insurance Code.

(e) Any person who knowingly transacts insurance or otherwise engages in insurance activities in this state without a license, or while the license(s) is/are suspended or revoked, commits a felony of the third degree.

DONE and ORDERED this 15th day of September, 2014.



Gregory Thomas
Director, Agent & Agency Services

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review within thirty (30) days of the rendition of this Order, pursuant to section 120.68, Florida Statutes, and Rule 9.190, *Florida Rules of Appellate Procedure*. Review proceedings must be instituted by filing a petition or notice of appeal with Julie Jones, the DFS Agency Clerk. Filing with the Agency Clerk may be accomplished via U.S. Mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail. The address for overnight delivery or hand delivery is Julie Jones, DFS Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida, 32399-0390. The fax number is (850) 488-0697. The email address is Julie.Jones@myfloridacfo.com.

A copy of the petition or notice of appeal must also be filed with the appropriate district court of appeal within thirty (30) days of the rendition of this Order.

Copies Furnished To:

Heather Sue Onuska
Florida Insurance Specialists
1025 Greenwood Blvd., Suite 300
Lake Mary, FL 32746-5406

Heather Sue Onuska
1060 Regal Pointe Terrace Apt. 302
Lake Mary, FL 32746-2035

Gregory Thomas, Director
Division of Agents and Agency Services
200 East Gaines Street
Tallahassee, Florida 32399

David J. Busch, Esquire
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

FILED

MAY 01 2014

Docketed by EU

IN THE MATTER OF:

HEATHER SUE ONUSKA
_____ /

CASE NO.: 151045-14-AG

ADMINISTRATIVE COMPLAINT

TO: Heather Sue Onuska
FLORIDA INSURANCE SPECIALISTS
1025 Greenwood Blvd., Suite 300
Lake Mary, FL 32746-5406

Heather Sue Onuska
1060 Regal Pointe Terrace, Apt. 302
Lake Mary, FL 32746-2035

e-mail: hwonuska@gmail.com

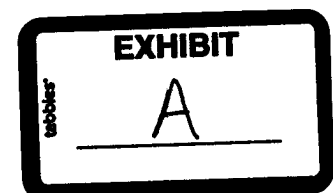
You, HEATHER SUE ONUSKA, license I.D. # W058213, are hereby notified that the Chief Financial Officer of the State of Florida has caused to be made an investigation of your activities while licensed as an insurance agent in this state, as a result of which it is alleged:

GENERAL ALLEGATIONS

1. Pursuant to Chapter 626, Florida Statutes, you, HEATHER SUE ONUSKA, are currently licensed in this state as a life including variable annuity & health agent (2-15) and as a general lines (property and casualty) agent (2-20).

2. At all times pertinent to the dates and occurrences referred to herein, you, HEATHER SUE ONUSKA, were so licensed in this state.

3. At all times pertinent to the dates and occurrences referred to herein, you, HEATHER SUE ONUSKA, were an agent for Buddy Davenport State Farm Agency (the



agency) located at 1305 State Road 44, New Smyrna Beach, FL 32168. More recently you have been employed at Florida Insurance Specialists, 1025 Greenwood Blvd., Suite 300, Lake Mary, FL 32746-5406.

4. Pursuant to Chapter 626, Florida Statutes, the Florida Department of Financial Services ("Department") has jurisdiction over your insurance licenses and appointments.

COUNT I

5. The above general allegations are hereby realleged and fully incorporated herein by reference.

6. On or about April 16, 2012, you, HEATHER SUE ONUSKA, directed Ms. G.W., an insurance client who was then 77 years old, (born in 1934), to write a check to you in payment of insurance premiums in the amount of \$4,825.75.

7. You, HEATHER SUE ONUSKA, in return for the above payment, issued G.W.'s receipts indicating that the funds would be applied to G.W.'s insurance policies and other insurance billing statements.

8. You, HEATHER SUE ONUSKA, cashed Ms. G.W.'s check for your personal use and did not apply the proceeds to any of G. W.'s policy premiums or other bills.

9. It was only after G. W.'s son, J.E.W., investigated the payments and confronted you, HEATHER SUE ONUSKA, as to your insurance dealings with his mother, that the funds were eventually returned to Ms. G.W. by State Farm. As a result of your misconduct, you were terminated as an employee at the agency and State Farm rescinded your appointment as a State Farm agent.

IT IS THEREFORE CHARGED that you, HEATHER SUE ONUSKA, have violated or are accountable under one or more of the following provisions of the Florida Statutes or Florida

Administrative Code, which constitute grounds for the suspension or revocation of your licenses as a Florida insurance agent:

(a) Section 626.611(5), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to willfully misrepresent any insurance policy or annuity contract or willfully deceive with regard to any such policy or contract, done either in person or by any form of dissemination of information or advertising;

(b) Section 626.611(7), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to demonstrate a lack of fitness or trustworthiness to engage in the business of insurance;

(c) Section 626.611(9), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to exhibit fraudulent or dishonest practices in the conduct of business under the license or appointment;

(d) Section 626.611(10), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to misappropriate, convert, or unlawfully withhold moneys belonging to insurers or insureds or beneficiaries or to others and received in the conduct of business under the license;

(e) Section 626.621(2), Florida Statutes, which provides that violating any provision of this Code or any law applicable to the business of insurance in the course of dealing under the licensure or appointment is, in itself, a violation of law;

(f) Section 626.621(6), Florida Statutes, which provides that engaging in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX of chapter 626, Florida Statutes, while conducting business under a license or appointment is, in itself, a violation of law;

(g) Section 626.9541(1)(e)1.c., Florida Statutes, which provides that it is an unfair or deceptive act or practice, violative of section 626.9521, Florida Statutes, to knowingly deliver to any person any false material statement with respect to an insurance policy or insurance contract.

COUNT II

10. The above general allegations are hereby realleged and fully incorporated herein by reference.

11. On or about July 11, 2012, R.L.C. telephoned the agency and spoke with you, HEATHER SUE ONUSKA, about making payments due on insurance for two motor vehicles that were insured through the agency. Mr. C. authorized you to use his credit card to make the payments.

12. You, HEATHER SUE ONUSKA, generated a State Farm Insurance Company (State Farm) receipt in the amount of \$802.85 and e-mailed the receipt to Mr. C.

13. Shortly thereafter Mr. C. noticed another charge on his credit card for \$40.89 to State Farm. Upon further investigation the agency's office manager, Todd Perry, discovered that you, HEATHER SUE ONUSKA, had submitted an application for a life insurance policy on your mother, Carol S. Witt, listing yourself as the beneficiary.

14. You, HEATHER SUE ONUSKA, had used Mr. C.'s credit card, without his authorization, to make the initial premium payment submitted with the life insurance application. Mr. Perry was able to have the charge refunded back to Mr. C.

IT IS THEREFORE CHARGED that you, HEATHER SUE ONUSKA, have violated or are accountable under one or more of the following provisions of the Florida Statutes or Florida Administrative Code, which constitute grounds for the suspension or revocation of your licenses as a Florida insurance agent:

(a) Section 626.611(5), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to willfully misrepresent any insurance policy or annuity contract or willfully deceive with regard to any such policy or contract, done either in person or by any form of dissemination of information or advertising;

(b) Section 626.611(7), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to demonstrate a lack of fitness or trustworthiness to engage in the business of insurance;

(c) Section 626.611(9), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to exhibit fraudulent or dishonest practices in the conduct of business under the license or appointment;

(d) Section 626.611(10), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to misappropriate, convert, or unlawfully withhold moneys belonging to insurers or insureds or beneficiaries or to others and received in the conduct of business under the license;

(e) Section 626.621(2), Florida Statutes, which provides that violating any provision of this Code or any law applicable to the business of insurance in the course of dealing under the licensure or appointment is, in itself, a violation of law;

(f) Section 626.621(6), Florida Statutes, which provides that engaging in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX of chapter 626, Florida Statutes, while conducting business under a license or appointment is, in itself, a violation of law;

(g) Section 626.9541(1)(e)1.c., Florida Statutes, which provides that it is an unfair or deceptive act or practice, violative of section 626.9521, Florida Statutes, to knowingly deliver to any person any false material statement with respect to an insurance policy or insurance contract.

COUNT III

15. The above general allegations are hereby realleged and fully incorporated herein by reference.

16. In the course of investigating the above matters, Department personnel determined that you, HEATHER SUE ONUSKA, failed to update your home, business and mailing addresses with the Department within 30 days of changing one or more of those addresses.

IT IS THEREFORE CHARGED that you, HEATHER SUE ONUSKA, have violated or are accountable under one or more of the following provisions of the Florida Statutes or Florida Administrative Code, which constitute grounds for the suspension or revocation of your licenses as a Florida insurance agent:

(a) Section 626.611(5), Florida Statutes, which provides that it is a violation for any licensee to fail to notify the department, in writing, of a change of name, residence address,

principal business street address, mailing address, contact telephone numbers, including a business telephone number, or e-mail address.

WHEREFORE, you, HEATHER SUE ONUSKA, are hereby notified that the Chief Financial Officer intends to enter an Order suspending or revoking your licenses and appointments as an insurance agent or to impose such penalties as may be provided under the provisions of Sections 626.611, 626.621, 626.641, 626.681, 626.691, 626.692 and 626.9521, Florida Statutes, and under the other referenced sections of the Florida Statutes as set out in this Administrative Complaint.

NOTICE OF RIGHTS

You have the right to request a proceeding to contest this action by the Department of Financial Services ("Department") pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule 28-106, Florida Administrative Code. The proceeding request must be in writing, signed by you, and must be filed with the Department within twenty-one (21) days of your receipt of this notice. Completion of the attached Election of Proceeding form and/or a petition for administrative hearing will suffice as a written request. The request must be filed with DFS Agency Clerk, Julie Jones, Florida Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0390. Your written response must be received by the Department no later than 5:00 p.m. on the twenty-first day after your receipt of this notice. Mailing the response on the twenty-first day will not preserve your right to a hearing.

FAILURE TO ENSURE YOUR WRITTEN RESPONSE IS RECEIVED BY THE DEPARTMENT WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THIS NOTICE WILL CONSTITUTE A WAIVER OF YOUR RIGHT TO REQUEST A PROCEEDING ON THE MATTERS ALLEGED HEREIN AND AN ORDER OF SUSPENSION OR REVOCATION WILL BE ENTERED AGAINST YOU.

If you request a proceeding, you must provide information that complies with the

requirements of Rule 28-106.2015, Florida Administrative Code. As noted above, completion of the attached Election of Proceeding form conforms to these requirements. Specifically, your response must contain:

(a) The name, address, and telephone number, and facsimile number (if any) of the respondent (for the purpose of requesting a hearing in this matter, you are the "respondent").

(b) The name, address, telephone number, facsimile number of the attorney or qualified representative of the respondent (if any) upon whom service of pleadings and other papers shall be made.

(c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

(d) A statement of when the respondent received notice of the administrative complaint.

(e) A statement including the file number to the administrative complaint.

If a hearing of any type is requested, you have the right to be represented by counsel or other qualified representative at your expense, to present evidence and argument, to call and cross-examine witnesses, and to compel the attendance of witnesses and the production of documents by subpoena.

If a proceeding is requested and there is no dispute of material fact, the provisions of Section 120.57(2), Florida Statutes, apply. In this regard, you may submit oral or written evidence in opposition to the action taken by the Department or a written statement challenging the grounds upon which the Department has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary, one will be conducted in Tallahassee, Florida, or by telephonic conference call upon your request.

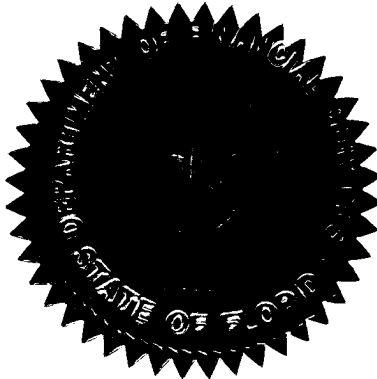
However, if you dispute material facts which are the basis for the Department's action, you must request an adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. These proceedings are held before a State Administrative Law Judge of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the

Department will request that the hearing be conducted in Tallahassee, Florida.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. All prior oral communication or correspondence in this matter shall be considered freeform agency action, and no such oral communication or correspondence shall operate as a valid request for an administrative proceeding. Any request for an administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

Mediation of this matter pursuant to Section 120.573, Florida Statutes, is not available. No Department attorney will discuss this matter with you until the response has been received by the Department.

DATED and SIGNED this 1st day of May, 2014.




[Redacted signature]

Gregory Thomas
Director, Agent & Agency Services

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ADMINISTRATIVE COMPLAINT and ELECTION OF PROCEEDING has been furnished to: HEATHER SUE ONUSKA at FLORIDA INSURANCE SPECIALISTS, 1025 Greenwood Blvd., Suite 300, Lake Mary, FL 32746-5406; HEATHER SUE ONUSKA at 1060 Regal Pointe Terrace, Apt. 302, Lake Mary, FL 32746-2035 and/or via electronic mail to hwonuska@gmail.com this 1st day of May 2014.



David J. Busch
Assistant General Counsel
Department of Financial Services
Division of Legal Services
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0333
(850) 413-4146
Florida Bar No. 140945

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF LEGAL SERVICES

IN THE MATTER OF:

HEATHER SUE ONUSKA
_____ /

CASE NO.: 151045-14-AG

ELECTION OF PROCEEDING

I have received and have read the Administrative Complaint filed by the Florida Department of Financial Services ("Department") against me, including the Notice of Rights contained therein, and I understand my options. I am requesting disposition of this matter as indicated below. **(CHOOSE ONE)**

1. ☐ I do not dispute any of the Department's factual allegations and I do not desire a hearing. I understand that by waiving my right to a hearing, the Department may enter a final order that adopts the Administrative Complaint and imposes the sanctions sought, including suspending or revoking my licenses and appointments as may be appropriate.
2. I do not dispute any of the Department's factual allegations and I hereby elect a proceeding to be conducted in accordance with Section 120.57(2), Florida Statutes. In this regard, I desire to **(CHOOSE ONE)**:
- ☐ Submit a written statement and documentary evidence in lieu of a hearing; or
- ☐ Personally attend a hearing conducted by a department hearing officer in Tallahassee; or
- ☐ Attend that same hearing by way of a telephone conference call.
3. ☐ I do dispute one or more of the Department's factual allegations. I hereby request a hearing pursuant to Section 120.57(1), Florida Statutes, to be held before the Division of Administrative Hearings. I have attached to this election form the information required by Rule 28-106.2015, Florida Administrative Code, as specified in subparagraph (c) of the Notice of Rights. Specifically, I have identified the disputed issues of material fact.

TO PRESERVE YOUR RIGHT TO A HEARING, YOU MUST FILE YOUR RESPONSE WITH THE DEPARTMENT OF FINANCIAL SERVICES WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THE ADMINISTRATIVE COMPLAINT. THE RESPONSE MUST BE RECEIVED BY THE DEPARTMENT NO LATER THAN 5:00 P.M. ON THE TWENTY-FIRST DAY AFTER YOUR RECEIPT OF THE ADMINISTRATIVE COMPLAINT.

The address for filing is: Julie Jones, DFS Agency Clerk, Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390.

Signature

Date: _____

Date Administrative
Complaint Received: _____

**If you are represented by an attorney or qualified
representative, please attach to this election form his
or her name, address, telephone and fax numbers**

Print Name

Address: _____

Phone No.: _____

Fax No.: _____

Sanford Herald

Published Twice Weekly
Sanford, Seminole County, FL

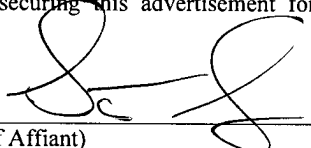
STATE OF FLORIDA COUNTY OF SEMINOLE

Before the undersigned authority personally appeared Scott Gabbey, who on oath says that he is the legal advertising specialist for Sanford Herald, a twice weekly newspaper published by Seminole Newspapers, Inc., at Sanford, in Seminole County, Florida, that the attached copy of the advertisement,

being a Notice of administrative
Complaint in the matter of
Case No: 151045-14-AG
Heather Sue Onuska

_____ in the _____ Court,
was published in said newspaper in the issues of _____
July 2, 9, 16, 23, 2014

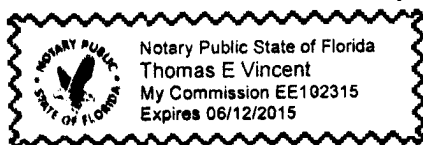
Affiant further says that said Sanford Herald is a newspaper published by Seminole Newspapers, Inc., at Sanford, in said Seminole County, Florida, and that the said newspaper has heretofore been continuously published in said Seminole County, Florida, twice weekly and has been entered as periodicals matter at the post office in Sanford, in said Seminole County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.


(Signature of Affiant)

Sworn to and subscribed before me this 23rd
day of July, 20 14


(Signature of Notary Public)

Personally Known or Produced Identification ☒



NOTICE OF ADMINISTRATIVE COMPLAINT

Case No.: 151045-14-AG

TO: Heather Sue Onuska
Lake Mary, FL

An ADMINISTRATIVE COMPLAINT to suspend or revoke your license(s) and eligibility for licensure and appointment has been filed against you. You have the right to request a hearing pursuant to Sections 120.569 and 120.57 (1) and (2), Florida Statutes, by mailing a request for same to the Department of Financial Services, Julie Jorjes, Agency Clerk, Division of Legal Services, 200 E. Gaines St., Tallahassee, Florida 32399-0333. If a request for hearing is not received by August 13, 2014, the right to a hearing in this matter will be waived and the Chief Financial Officer will dispose of this case in accordance with the law.

Publish: July 2, 9, 16, 23, 2014
F002

EXHIBIT

B