

# FILED

JAN 27 2015

Docketed by MC



CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
STATE OF FLORIDA

IN THE MATTER OF:

Case No.: 162533-14-AG

LAWRENCE M. FUCINARI

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## ORDER OF SUSPENSION

THIS PROCEEDING CAME on for final agency action and the Chief Financial Officer, having considered the record, including the Administrative Complaint filed on December 4, 2014, and being fully advised in the premises, finds that:

1. Lawrence M. Fucinari is currently licensed by the Department of Financial Services (the "Department"), pursuant to the Florida Insurance Code, as a nonresident public adjuster.
2. On December 4, 2014, the Department issued an Administrative Complaint, attached hereto as "Exhibit A," against Lawrence M. Fucinari alleging that he failed to maintain a surety bond.
3. The Department notified Lawrence M. Fucinari in the Administrative 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 Administrative Complaint or request a proceeding within twenty-one (21) days would result in the imposition of a penalty.

4. In accordance with section 624.310(6)(a)1, Florida Statutes, the Administrative Complaint was served upon Lawrence M. Fucinari on December 9, 2014.

5. Lawrence M. Fucinari failed to answer the Administrative Complaint or request a proceeding in accordance with sections 120.569 and 120.57, Florida Statutes.

#### FINDINGS OF FACT

6. The factual allegations contained in the Administrative Complaint filed on December 4, 2014, which is attached hereto as Exhibit A, and fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

#### CONCLUSION OF LAW

7. Based upon the Findings of Fact adopted herein, the Department concludes that Lawrence M. Fucinari violated the specific statutes and rules charged in each count of the Administrative Complaint, attached hereto as Exhibit A, and hereby adopts the violations charged in each count of the Administrative Complaint as the Conclusions of Law in this case.

#### PENALTY IMPOSED

8. The failure of Lawrence M. Fucinari to answer the Administrative Complaint or request a proceeding, taken together with the Findings of Fact and Conclusions of Law adopted herein, constitutes grounds for the Chief Financial Officer to suspend the license of Lawrence M. Fucinari.

IT IS THEREFORE ORDERED that:

(a) All licenses, appointments and eligibility for licensure heretofore issued to Lawrence M. Fucinari, within the purview of the Department, are hereby suspended for a period of ninety (90) days.

(b) During the period of suspension, Lawrence M. Fucinari 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 until the license is reinstated or, if revoked, a new license is issued.

(c) Lawrence M. Fucinari shall not have the right to apply for and the Department shall not grant another license or appointment under the Florida Insurance Code for ninety (90) days following the effective date of suspension.

(d) Following the ninety (90) day suspension, Lawrence M. Fucinari shall be entitled to file an application for reinstatement of licensure. However, the license of Lawrence M. Fucinari shall not be reinstated if the circumstance or circumstances for which the license was suspended still exist or are likely to recur, or if he is not otherwise eligible for licensure.

(e) Within ten (10) calendar days of the issuance of this Order of Suspension, Lawrence M. Fucinari shall return to the Department of Financial Services, Bureau of Licensing, 200 East Gaines Street, Tallahassee, Florida 32399-0319, all licenses issued to Lawrence M. Fucinari pursuant to the Florida Insurance Code.

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

DONE and ORDERED this 27<sup>th</sup> day of January, 2015.



Gregory Thomas  
Director, Agent & Agency Services

### NOTICE OF RIGHT TO APPEAL

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](mailto: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:

Lawrence M. Fucinari  
10035 Vernon Avenue  
Huntington Woods, Michigan 48070

Greg Thomas, Director  
Division of Agent & Agency Services  
200 East Gaines Street  
Tallahassee, Florida 32399

Complaint & Settlement  
Division of Legal Service  
200 East Gaines Street  
Tallahassee, Florida 32399-0333

FILED

DEC - 4 2014



CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
STATE OF FLORIDA

Docketed by AM

IN THE MATTER OF:

Case No.: 162533-14-AG

LAWRENCE M. FUCINARI

ADMINISTRATIVE COMPLAINT

Lawrence M. Fucinari  
10035 Vernon Avenue  
Huntington Woods, Michigan 48070

The Chief Financial Officer of the State of Florida has caused to be made an investigation of Lawrence M. Fucinari's activities while licensed as a nonresident public adjuster in this state, as a result of which it is alleged:

GENERAL ALLEGATIONS

1. Pursuant to chapter 626, Florida Statutes, Lawrence M. Fucinari is currently licensed in this state as a nonresident public adjuster.
2. At all times pertinent to the dates and occurrences referred to herein, Lawrence M. Fucinari was licensed in this state as a nonresident public adjuster.
3. Pursuant to chapter 626, Florida Statutes, the Florida Department of Financial Services (the "Department") has jurisdiction over Lawrence M. Fucinari's license and appointment.

EXHIBIT

A

## COUNT I

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

5. Section 626.865(2), Florida Statutes, provides, in part, that at the time of application for licensure as a public adjuster, the applicant shall file with the Department a bond executed and issued by a surety insurer authorized to transact such business in this state, in the amount of \$50,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license. Such bond must be maintained unimpaired through the existence of the license and for at least one (1) year after termination of the license.

6. In connection with his application for licensure as a nonresident public adjuster, on August 26, 2004, Lawrence M. Fucinari filed the required bond with the Department. Fidelity and Deposit Company of Maryland issued bond number LPM8661615.

7. On August 13, 2014, Fidelity and Deposit Company of Maryland issued a written notice to Lawrence M. Fucinari stating that it would cancel the bond effective September 19, 2014.

8. On August 18, 2014, the Department received notice from Fidelity and Deposit Company of Maryland that it would cancel the surety bond effective September 19, 2014.

9. On August 19, 2014, the Department issued a written notice to Lawrence M. Fucinari requesting that he provide an original replacement bond.

10. Lawrence M. Fucinari failed to respond to the Department's notice.

11. On September 19, 2014, Fidelity and Deposit Company of Maryland cancelled the bond.

12. As of the date of the filing of this Administrative Complaint, Lawrence M. Fucinari has failed to provide the Department with proof of a replacement bond.

IT IS THEREFORE CHARGED that Lawrence M. Fucinari has violated one or more of the following provisions of the Florida Statutes and/or the *Florida Administrative Code*, which constitutes sufficient grounds for the suspension or revocation of his license or appointment as a public adjuster in this state:

(a) Section 626.865(2), Florida Statutes, which provides that a public adjuster shall maintain an unimpaired surety bond at all times licensed in the amount of \$50,000.

(b) Section 626.611(1)(a), Florida Statutes, which provides that the Department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any public adjuster if it finds that the applicant, licensee, or any principal thereof lacks one or more of the qualifications for the license or appointment as specified.

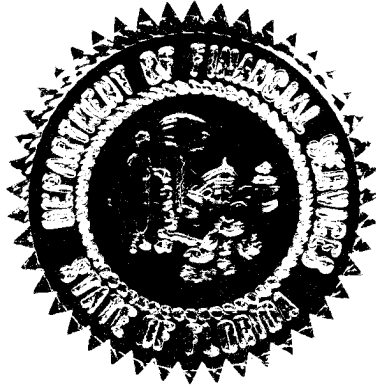
(c) Section 626.611(1)(m), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to willfully fail to comply with, or willfully violate, any proper order or rule of the Department or any provision of the Florida Insurance Code.


(d) Section 626.621(2), Florida Statutes, which provides that the Department may, in its discretion, suspend, revoke, or refuse to renew or continue the license or appointment of any licensee if it finds any violation of any provision of Florida Insurance Code or of any other law applicable to the business of insurance in the course of dealing under the license or appointment.



WHEREFORE, Lawrence M. Fucinari is hereby notified that the Chief Financial Officer, through his designee, intends to enter an order suspending or revoking any license and appointment issued to him pursuant to the Florida Insurance Code or to impose such penalties as may be provided under the provisions of sections 626.611, 626.621, 626.681, 626.691, and 626.8698, Florida Statutes, and under the other referenced sections of the Florida Statutes as set out in this Administrative Complaint.

DATED and SIGNED this 4<sup>th</sup> day of December, 2014.



  
Gregory Thomas  
Director, Agent & Agency Services

### NOTICE OF RIGHTS

You have the right to request a proceeding to contest this action by the Department pursuant to sections 120.569 and 120.57, Florida Statutes, and chapter 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 a petition for an administrative hearing are required. The request must be filed with Julie Jones, DFS Agency Clerk, at the Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. 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 THAT 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 A FINAL 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*. Specifically, your response must contain:

(a) The name, address, 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 of 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 an administrative law judge of the State of Florida 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 free form 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 before 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 during the time frame in which you have to request a hearing.

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: Lawrence M. Fucinari, 10035 Vernon Avenue, Huntington Woods, Michigan 48070, by Certified Mail this 4<sup>th</sup> day of December, 2014.



Robert A. Fox  
Assistant General Counsel  
Department of Financial Services  
Division of Legal Services  
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200 East Gaines Street  
Tallahassee, Florida 32399-0333  
(850) 413-4227