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FEB 09 2015

Docketed by EU



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF:

CASE NO.: 152859-14-AG

SERGE MESIAS

_____ /

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 September 16, 2014, and being fully advised in the premises, finds that:

1. Serge Mesias is currently licensed by the Department of Financial Services (the "Department"), pursuant to the Florida Insurance Code, as a life including variable annuity and health agent.
2. An Administrative Complaint was issued against Serge Mesias alleging that Serge Mesias submitted insurance documents without the knowledge, consent or true signature of the insured. The Administrative Complaint further alleged that Serge Mesias failed to complete a five hour update course.
3. Serge Mesias was notified 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 120.60(5), Florida Statutes, the Administrative Complaint was served upon Serge Mesias by publication in the Miami Daily Business Review on December 10, 2014, December 17, 2014, December 24, 2014, and December 31, 2014. A copy of the publication is attached hereto as Exhibit "B".

5. Serge Mesias 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 dated September 16, 2014, which is attached hereto as "Exhibit A," and fully incorporated herein by reference, are hereby adopted as this Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

7. Based upon the Findings of Fact adopted herein, the Department concludes that Serge Mesias 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 Serge Mesias 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 Serge Mesias.

IT IS THEREFORE ORDERED that:

(a) All licenses, appointments and eligibility for licensure heretofore issued to Serge Mesias, within the purview of the Department, are hereby SUSPENDED FOR NINE (9) MONTHS.

(b) The Department shall not grant Serge Mesias a new license or appointment except upon the filing and approval of an application for reinstatement.

(c) During the period of suspension, Serge Mesias shall not engage in or attempt or profess to engage in any transaction of business for which a license or appointment is required under the 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.

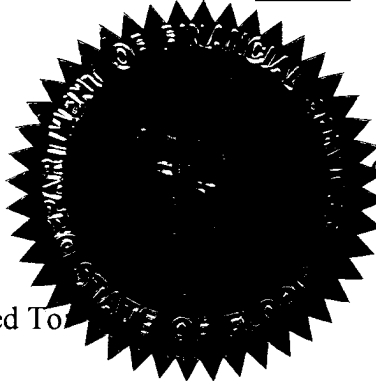
(d) Serge Mesias shall return to the Department of Financial Services, Bureau of Licensing, 200 East Gaines Street, Tallahassee, Florida 32399-0319, within ten (10) calendar days of the issuance of this order, all licenses issued to Serge Mesias pursuant to the Florida Insurance Code.

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

NOTICE OF RIGHT TO APPEAL

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to section 120.68, Florida Statutes, and Rule 9.110, *Florida Rules of Appellate Procedure*. Review proceedings must be instituted by filing a petition or notice of appeal with Julie Jones, DFS Agency Clerk, at 612 Larson Building, Tallahassee, Florida 32399-0390, and a copy of the same with the appropriate District Court of Appeal within thirty (30) days of rendition of this Order.

DONE and ORDERED this 9th day of February, 2015.




Gregory Thomas
Division Director, Agent & Agency Services

Copies Furnished To

SERGE MESIAS
2020 NORTHEAST STREET #710
MIAMI, FLORIDA 33181

GREGORY THOMAS
Division of Agent & Agency Services
200 East Gaines Street
Tallahassee, Florida 32399-0320

Zaynab Salman
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399-0333



JEFF ATWATER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

FILED

SEP 16 2014

Docketed by Eu

IN THE MATTER OF:

CASE NO.: 152859-14-AG

SERGE MESIAS
_____ /

ADMINISTRATIVE COMPLAINT

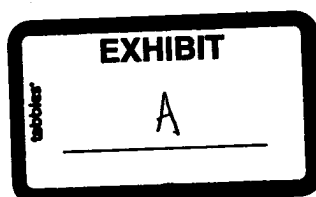
TO: Serge Mesias
2020 Northeast 135th Street #710
Miami, FL 33181-2112

SERGE MESIAS IS HEREBY NOTIFIED that the Chief Financial Officer of the State of Florida has caused to be made an investigation of his insurance-related activities in this state, and as a result of that investigation the Chief Financial Officer alleges the following:

GENERAL ALLEGATIONS

1. Pursuant to chapter 626, Florida Statutes, Serge Mesias is currently licensed in this state as a life including variable annuity and health agent, and was so licensed at all times relevant to the dates and occurrences referenced herein.

2. The Florida Department of Financial Services (hereinafter referred to as the "Department") has jurisdiction over Serge Mesias' licenses and appointments, having been issued license number P077385.



COUNT I

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

4. On or about May 29, 2012, Serge Mesias prepared and submitted an application for insurance on behalf of K.W. with Coventry Summit Maximum HMO. This application was prepared without the knowledge or consent of K.W.

5. The placement of this additional coverage resulted in the cancellation of K.W.'s Medicare health insurance coverage.

6. K.W. did not sign the application for this insurance and did not consent to or even know about the application until after his Medicare coverage had been cancelled and substituted with the Coventry Summit Maximum HMO.

7. Serge Mesias received a commission on the sale of this policy.

IT IS THEREFORE CHARGED that Serge Mesias has violated or is accountable under one or more of the following provisions of the Florida Insurance Code, which constitutes grounds for the suspension or revocation of his licenses as an insurance agent in this state:

(a) 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.

(b) 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.

(c) Section 626.621(6), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, in the conduct of business under the license or appointment, to engage in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX of this chapter, or otherwise show oneself to be a source of injury or loss to the public interest.

(d) Section 626.9541(1)(e)1.b., Florida Statutes, which provides that it is an unfair method of competition and an unfair or deceptive act or practice, violative of Section 626.9521, Florida Statutes, to knowingly make, publish, disseminate or circulate any false material statement.

(e) Section 626.9541(1)(e)1.e., Florida Statutes, which provides that it is an unfair method of competition and an unfair or deceptive act or practice, violative of section 626.9521, Florida Statutes, to knowingly cause, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement.

(f) Section 626.9541(1)(k)1., Florida Statutes, which provides that it is an unfair method of competition and an unfair or deceptive act or practice, violative of section 626.9521, Florida Statutes, to knowingly make a false or fraudulent written or oral statement or representation on, or relative to, an application or negotiation for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual.

(g) Section 626.9541(1)(ee), Florida Statutes, which provides that it is an unfair method of competition and unfair or deceptive act or practice, violative of section 626.9521, Florida Statutes, to willfully submit to an insurer on behalf of a consumer an insurance application or policy-related document bearing a false or fraudulent signature.

COUNT II

8. The above general allegations are hereby re-alleged and fully incorporated herein by reference.

9. Section 626.2815(3), Florida Statutes, provides that each licensed agent shall complete a 5-hour update course every two years which is specific to the license held by the licensee.

10. On or about December 31, 2013, the Department issued a written notice to Serge Mesias reflecting that he did not complete continuing education requirements.

11. As of the date of this administrative complaint, Serge Mesias has failed to complete a 5-hour update course.

IT IS THEREFORE CHARGED that Serge Mesias has violated or is accountable under one or more of the following provisions of the Florida Insurance Code, which constitutes grounds for the suspension or revocation of his licenses as an insurance agent in this state:

(a) Section 626.2815(3), Florida Statutes, which provides that each licensee must complete a 5-hour update course every two years which is specific to the license held by the licensee.

(b) Rule 69B-228.220(1)(a), Florida Administrative Code, which provides that a licensee shall be required to meet continuing education requirements by the end of the licensee's birth month after being licensed 24 months, and every two years thereafter.

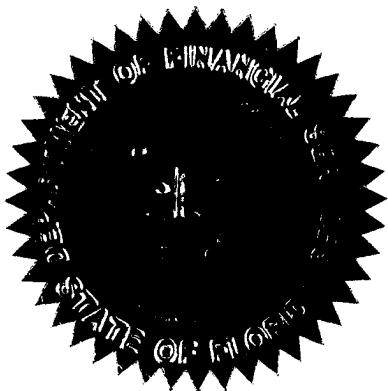
(c) Rule 69B-228.220(2)(a), Florida Administrative Code, which provides that the department shall refuse to renew or continue the appointments or issue new appointments of any licensee who does not satisfy the minimum continuing education requirements by the compliance date.


(d) Section 626.611(2), 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 lack of one or more of the qualifications for the license or appointment as specified in this code.

(e) Section 626.621(3), 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 violate any lawful order or rule of the department, commission, or office.

WHEREFORE, Serge Mesias is hereby notified that the Chief Financial Officer intends to enter an Order suspending or revoking his licenses and appointments as an insurance agent or to impose such penalties as may be provided under the provisions of sections 624.15, 626.611, 626.621, 626.681, 626.691, and 626.9521, Florida Statutes, and under the other referenced sections of the Florida Statutes and *Florida Administrative Code* as set out in this Administrative Complaint and under the provisions of Rule 69B-231, *Florida Administrative Code*. Serge Mesias is further notified that any order entered in this case revoking or suspending any license or eligibility for licensure held shall also apply to all other licenses and eligibility held by him under the Florida Insurance Code.

DATED this 16th day of September, 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 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 Julie Jones, Agency Clerk, at the Florida Department of Financial Services, 612 Larson Building, 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) Your name, address, and telephone number, and facsimile number (if any).
- (b) The name, address, telephone number, facsimile number of your attorney or qualified representative (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 you received this Administrative Complaint.

(e) A statement including the case number of this 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.

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: Serge Mesias, 2020 Northeast 135th Street #710, Miami, Florida 33181-2112, mailed on this 16th day of September, 2014.


Zaynab Salman
Division of Legal Services
200 East Gaines St.
612 Larson Building
Tallahassee, Florida 32399-033
Florida Bar Number 30942
(850) 413-4156
Zaynab.salman@myfloridacfo.com

91 7199 9991 7032 7167 4795

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF LEGAL SERVICES

IN THE MATTER OF:

CASE NO.: 152859-14-AG

SERGE MESIAS

_____ /

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: General Counsel acting as Agency Clerk, Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333.

Signature

Print Name

Date: _____

Address: _____

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

Phone No.: _____

Fax No.: _____

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared MARIA MESA, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

152859-14-AG
NOTICE OF ADMINISTRATIVE COMPLAINT
TO: SERGE MESIAS - MIAMI, FL

in the XXXX Court,
was published in said newspaper in the issues of

12/10/2014 12/17/2014 12/24/2014 12/31/2014

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade 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.

Sworn to and subscribed before me this

31 day of DECEMBER, A.D. 2014

(SEAL)

MARIA MESA personally known to me

NOTICE OF ADMINISTRATIVE COMPLAINT

TO: Serge Mesias
Miami, FL

Case No.: 152859-14-AG

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 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. If a request for hearing is not received by January 21, 2015, 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.

12/10-17-24-31

14-4-50/2381224M

