



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

FILED

APR 23 2015

Docketed by 152

IN THE MATTER OF:

Case No.: 167955-15-AG

JAMES GARCIA
_____ /

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 March 4, 2015, and being fully advised in the premises, finds that:

1. James Garcia is currently licensed by the Department of Financial Services (the "Department"), pursuant to the Florida Insurance Code, as an all lines public adjuster.
2. On March 4, 2015, the Department issued an Administrative Complaint, attached hereto as "Exhibit A," against James Garcia alleging that he failed to maintain a surety bond.
3. The Department notified James Garcia 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), Florida Statutes, after attempts at service via certified mail were unsuccessful, the Department served the Administrative Complaint upon

James Garcia by e-mail at the e-mail address on record with the Department, with the required delivery receipt received on March 26, 2015. The e-mail, e-mail attachment (Administrative Complaint), and delivery receipt are attached hereto as "Exhibit B," and are fully incorporated herein by reference.

5. James Garcia 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 March 4, 2015, 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 James Garcia 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 James Garcia 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 James Garcia.

IT IS THEREFORE ORDERED that:

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

(b) During the period of suspension, and until the license is reinstated, James Garcia 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.

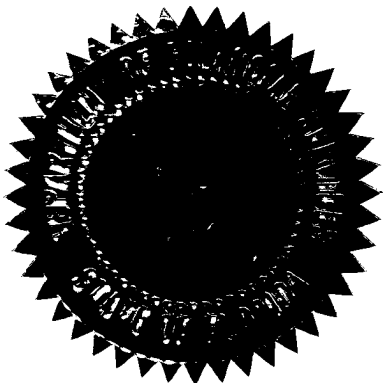
(c) James Garcia shall not have the right to apply for and the Department shall not grant another license or appointment under the Florida Insurance Code for ninety (90) days following the effective date of suspension.


(d) Following the ninety (90) day suspension, James Garcia shall be entitled to file an application for reinstatement of licensure. However, the license of James Garcia 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, James Garcia shall return to the Department of Financial Services, Bureau of Licensing, 200 East Gaines Street, Tallahassee, Florida 32399-0319, all licenses issued to James Garcia 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 23rd day of April, 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.

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:

garciaj85@gmail.com

James Garcia
1767 Apache Street Northeast
Palm Bay, Florida 32907

James Garcia
270 Northwest 107th Avenue
Apartment 101
Miami, Florida 33172

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

MAR 04 2015

Docketed by MC



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF:

Case No.: 167955-15-AG

JAMES GARCIA

ADMINISTRATIVE COMPLAINT

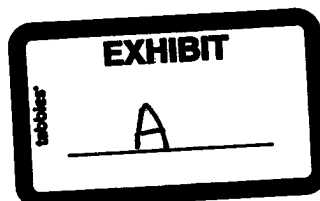
James Garcia
270 Northwest 107th Avenue
Apartment 101
Miami, Florida 33172

James Garcia
1767 Apache Street Northeast
Palm Bay, Florida 32907

The Chief Financial Officer of the State of Florida has caused to be made an investigation of James Garcia's activities while licensed as an all lines public adjuster in this state, as a result of which it is alleged:

GENERAL ALLEGATIONS

1. Pursuant to chapter 626, Florida Statutes, James Garcia is currently licensed in this state as an all lines public adjuster.
2. At all times pertinent to the dates and occurrences referred to herein, James Garcia was licensed in this state as an all lines public adjuster.



3. Pursuant to chapter 626, Florida Statutes, the Florida Department of Financial Services (the "Department") has jurisdiction over his license and appointment.

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 an all lines public adjuster, on April 27, 2007, James Garcia filed the required bond with the Department. Western Surety Company issued bond number 929422418.

7. On April 18, 2012, James Garcia filed a replacement bond with the Department. International Fidelity Insurance Company issued bond number 0589480.

8. On June 26, 2012, Western Surety Company cancelled bond number 929422418.

9. On July 31, 2014, International Fidelity Insurance Company issued a written notice to James Garcia stating that it would cancel bond number 0589480 effective thirty (30) days from his receipt of the notice.

10. On August 5, 2014, the Department received notice from International Fidelity Insurance Company that it would cancel bond number 0589480 effective thirty (30) days from James Garcia's receipt of the notice.

11. On August 8, 2014, the Department issued a written notice to James Garcia requesting that he provide an original replacement bond.

12. James Garcia failed to respond to the Department's notice.

13. On September 5, 2014, International Fidelity Insurance Company cancelled bond number 0589480.

14. As of the date of the filing of this Administrative Complaint, James Garcia has failed to provide the Department with proof of a replacement bond.

IT IS THEREFORE CHARGED that James Garcia 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.

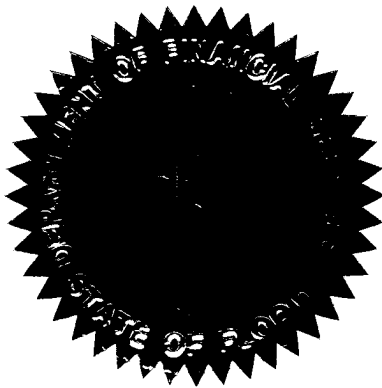
(c) Section 626.611(1)(m), Florida Statutes, which provides that it is a violation for any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent to willfully fail to comply with, or willfully violate, any proper order or rule of the Department 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, James Garcia 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 4th day of March, 2015.




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, and 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 you 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: James Garcia, 270 Northwest 107th Avenue, Apartment 101, Miami, Florida 33172; James Garcia, 1767 Apache Street Northeast, Palm Bay, Florida 32907; by Certified Mail this 4th day of March, 2015.



Leah L. Marino
Managing Attorney
Department of Financial Services
Division of Legal Services
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0333
(850) 413-4227

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF LEGAL SERVICES

IN THE MATTER OF:

CASE NO.: 167955-15-AG

JAMES GARCIA
_____ /

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 32399-0333.

Signature Print Name

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**

Address: _____

Phone No.: _____

Fax No.: _____

E-mail: _____

Carusello, Monica

From: Edgil, Kerry
Sent: Thursday, March 26, 2015 10:25 AM
To: 'garciaj85@gmail.com'
Subject: 167955-15-AG GARCIA, James:
Attachments: Administrative Complaint.pdf

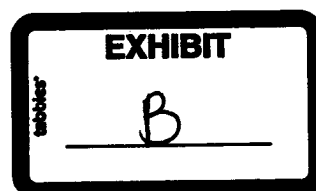
Importance: High

On March 4, 2015, an Administrative Complaint was filed against you. A copy was sent to you via Certified Mail and was returned to the Department undeliverable.

You are hereby notified that you have been served with the attached Administrative Complaint in accordance with section 624.310(6)(a), Florida Statutes (2014). If

requesting a hearing or disputing the allegations, return of the Election of Proceedings form is required within 21 days from today. See the attached for more information.

Kerry Edgil
Legal Assistant
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399-0333
(850) 413-4227
(850) 488-0697 Fax
kerry.edgil@myfloridacfo.com



Carusello, Monica

From: Microsoft Outlook
To: 'garciaj85@gmail.com'
Sent: Thursday, March 26, 2015 10:25 AM
Subject: Relayed: 167955-15-AG GARCIA, James:

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

'garciaj85@gmail.com' (garciaj85@gmail.com) <<mailto:garciaj85@gmail.com>>

Subject: 167955-15-AG GARCIA, James: