

FILED

MAY 22 2015

Docketed by MC



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF:

CASE NO.: 151055-14-AG

DAVID JOSEPH TRAINA
_____ /

CEASE AND DESIST ORDER

THIS PROCEEDING CAME on for final agency action and the Chief Financial Officer, having considered the record, including the Notice of Intent to Issue Cease and Desist Order ('Notice of Intent') filed on September 3, 2014, and being fully advised in the premises, finds that:

1. David Joseph Traina is not currently licensed by the Department of Financial Services (the "Department") pursuant to the Florida Insurance Code.

2. On September 3, 2014, the Department issued a Notice of Intent against David Joseph Traina alleging that he engaged in the unlicensed practice of insurance. (Attached hereto as "Exhibit A").

3. Pursuant to section 624.310(6), Florida Statutes, the Department served David Joseph Traina with the Notice of Intent, which included a Notice of Rights and Election of Proceeding Form, by publication in the Palm Beach Daily Business Review on December 22, 2014; December 29, 2014; January 5, 2015; and January 12, 2015. (Attached hereto as "Exhibit B").

4. The Notice of Rights advised David Joseph Traina that failure to respond to the Notice of Intent, and to request a proceeding in accordance with sections 120.569 and 120.57,

4. The Notice of Rights advised David Joseph Traina that failure to respond to the Notice of Intent, and to request a proceeding in accordance with sections 120.569 and 120.57, Florida Statutes, within twenty-one days would result in his waiver of a right to a hearing and the entry of an Order to Cease and Desist.

5. David Joseph Traina failed to answer the Notice of Intent 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 Notice of Intent, 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 David Joseph Traina violated the specific statutes and rules charged in each count of the Notice of Intent, and hereby adopts the violations charged in each count of the Notice of Intent as the Conclusions of Law in this case.

PENALTY IMPOSED

8. The failure of David Joseph Traina to answer the Notice of Intent 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 enter a Cease and Desist Order against David Joseph Traina.

IT IS THEREFORE ORDERED that:

(a) David Joseph Traina shall cease and desist from:

(1) transacting insurance without complying with the applicable provisions of the Florida Insurance Code;

(2) acting or operating as an insurance agent in Florida;

(3) advertising or holding himself out as an insurance agent;

(4) engaging in the business of insurance without being properly licensed;

(5) engaging in or attempting or professing to engage in any transaction or business for which a license or appointment is required under the Florida Insurance Code;

(6) soliciting insurance or annuities or procure applications; and


(7) violating the Florida Insurance Code, including, but not limited to those provisions specifically cited in the Notice of Intent.

(b) The Department provides notice to David Joseph Traina that the Department, pursuant to section 624.310(5), Florida Statutes, shall, in addition to any other applicable penalties and fines, impose a fine in accordance with section 624.310(5), Florida Statutes, against David Joseph Traina if he does not comply with this Cease and Desist Order.

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

DONE and ORDERED this 22nd day of May, 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 of this Order within thirty (30) days of rendition of this Order pursuant to section 120.68, Florida Statutes, and Florida Rule of Appellate Procedure 9.190. Review proceedings must be instituted by filing a notice of appeal with the appropriate district court of appeal and with the Department's Agency Clerk. The Department's Agency Clerk contact information is: Julie Jones, DFS Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida, 32399-0390. Filing may be accomplished via United States Post Office Mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail.

Copies Furnished To:

DAVID JOSEPH TRAINA
22331 Solitude Drive
Boca Raton, Florida 33428

GREG THOMAS, DIRECTOR
Division of Agent & Agency Services
200 East Gaines Street
Tallahassee, Florida 32399



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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IN THE MATTER OF:

DAVID JOSEPH TRAINA

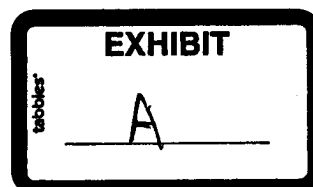
CASE NO.: 151055-14-AG

NOTICE OF INTENT TO ISSUE CEASE AND DESIST ORDER

David Joseph Traina is hereby notified that the Chief Financial Officer of the State of Florida has caused to be made an investigation of his activities in this state, as a result of which it is alleged:

GENERAL ALLEGATIONS

1. Pursuant to chapter 626, Florida Statutes, the Chief Financial Officer of the State of Florida and the Department of Financial Services (the "Department") have jurisdiction over the licenses, appointments, and eligibility for licensure of insurance agencies and agents.
2. According to the Department's records, David Joseph Traina, was licensed in this state as a credit life or disability agent from January 9, 2004, to February 14, 2006; and a life including variable annuity agent from February 11, 2006, to January 7, 2009.
3. On or about November 19, 2009, the Department revoked Mr. Traina's life including variable annuity license after he was adjudicated guilty on two felony counts of attempt to evade and defeat tax.
4. David Joseph Traina is the founder and president of Life Settlement Exchange, Inc.



COUNT I

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

6. David Joseph Traina affixed his signature on a Vespera Life, LLC Offer Form on behalf of consumer T.S., dated February 26, 2013. At the time of this transaction, David Joseph Traina did not hold a valid license to transact insurance in the state of Florida. David Joseph Traina represented himself as an insurance agent.

IT IS THEREFORE CHARGED that David Joseph Traina violated or is accountable under the following provisions of the Florida Insurance Code or *Florida Administrative Code*:

(a) Section 624.11, Florida Statutes, which provides that no person shall transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, without complying with the applicable provisions of the Florida Insurance Code.

(b) Section 626.112(1)(a), Florida Statutes, which prohibits, in part, individuals from acting as, advertising, or holding themselves out to be insurance agents without holding a current license or appointment.

(c) Section 626.112(1)(b)2, Florida Statutes, which prohibits agents or customer representatives, or those who hold themselves out as an agent or customer representative, from soliciting or transacting any insurance for which he or she is not then licensed and appointed.

(d) Section 626.641(4), Florida Statutes, which provides that during the period of suspension or revocation of a license or appointment, and until the license is reinstated or if revoked, a new license issued, the former licensee or appointee may not engage in or attempt or profess to engage in any transaction or business for which a license or appointment is required under this code or directly or indirectly own, control, or be employed in any manner by an agent,

agency, adjuster, or adjusting firm.

(e) Section 626.7315, Florida Statutes, which prohibits the unlicensed transaction of general lines insurance.

(f) Section 626.9571, Florida Statutes, which states that the Department shall conduct or cause to have conducted a hearing in accordance with chapter 120 whenever it has reason to believe that any person in this state has engaged in, or is engaging in any unfair method of competition or is engaging in the business of insurance without being properly licensed as required by this code and that a proceeding by it in respect thereto would be to the interest of the public, it shall conduct or cause to have conducted a hearing in accordance with chapter 120.

(g) Rule 69B-222.060, *Florida Administrative Code*, which states that unlicensed agency personnel are never allowed to interpret policies or coverages, or to bind new, additional, or replacement coverage for new or existing customers.

COUNT II

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

8. On or around December 31, 2013, David Joseph Traina maintained an active ~~website for Life Settlement Exchange, a company that specializes in life settlement transactions.~~

9. The website offers general information about the company and says that the company facilitates the sale of existing life insurance policies.

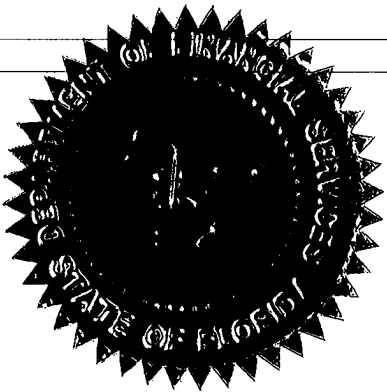
10. A search of the domain registry information and internet archives shows David Joseph Traina as the registered owner of the site. Contact information on the site provides an address listing of "2400 W. Cypress Creek Road, #135, Fort Lauderdale, Florida, 33301." Internet archives show that this site was active as recently as February 18, 2014.

IT IS THEREFORE CHARGED that David Joseph Traina violated or is accountable under one or more of the provisions cited more fully in Count I (a)-(g), above.

WHEREFORE, David Joseph Traina is hereby notified that the Chief Financial Officer of the State of Florida intends to enter a Cease and Desist Order against him pursuant to sections 626.9571 and 626.9581, Florida Statutes, as follows: (1) prohibiting David Joseph Traina from transacting insurance business in this state without a license; (2) prohibiting David Joseph Traina from engaging in any and all insurance related activities; (3) ordering David Joseph Traina to Cease and Desist violating any portion of the Florida Insurance Code or any rule by the Department; and (4) imposing other sanctions as authorized under the Florida Insurance Code.

David Joseph Traina is further notified that any person who violates a cease and desist order of the Department shall be subject to a monetary penalty of not more than fifty thousand (\$50,000) dollars pursuant to section 626.9601, Florida Statutes.

DATED and SIGNED this 3rd 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 (the "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 A WRITTEN RESPONSE IS RECEIVED BY THE DEPARTMENT WITHIN TWENTY-ONE (21) DAYS OF 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.

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.

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF LEGAL SERVICES

IN THE MATTER OF:

DAVID JOSEPH TRAINA

CASE NO.: 151055-14-AG

ELECTION OF PROCEEDING

I have received and have read the Notice of Intent to Issue a Cease and Desist Order 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, Agency Clerk, Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390.

Signature _____

Date: _____

Date Administrative

Complaint Received: _____

File No. (if any): _____

Print Name _____

Address: _____

Phone No.: _____

Fax No.: _____

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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Intent to Issue a Cease and Desist Order has been furnished by U.S. Certified Mail to DAVID JOSEPH TRAINA, at 2231 Solitude Drive, Boca Raton, Florida 33428 on this 3rd day of September, 2014.



April Harrell
Florida Bar No.: 0099437
Assistant General Counsel
Florida Department of Financial Services
Division of Legal Services
200 East Gaines St.
Tallahassee, Florida 32399-0333
P: (850) 413-4114



DAILY BUSINESS REVIEW.COM

DAILY BUSINESS REVIEW
MIAMI - BROWARD - PALM BEACH
MIAMI (305) 377-3721
BROWARD (954) 468-2600
PALM BEACH (561) 820-2060

Daily Business Review
P.O. Box 862882
Orlando FL 32886-2882

Palm Beach Daily Bus. Review
Legal Advertising

Please Remit To:

FL. DEPT. OF FINANCIAL SERVICES
Attention to: APRIL HARRELL
DIVISION OF LEGAL SERVICES
200 EAST GAINES STREET
TALLAHASSEE FL 32399

Customer #: 48350
Case / P.O. #: 151055-14-AG

Invoice #: 0238497203
Invoice Date: 01/12/2015
Due Date: Due Upon Receipt
AMOUNT DUE: \$229.63

PLEASE RETURN THIS SECTION WITH PAYMENT.

Amount Remitted

Palm Beach Daily Bus. Review

TEAR HERE

None

Invoice #: 0238497203 Invoice Date: 01/12/2015 Customer #: 48350 Case / P.O. #: 151055-14-AG

Order #	Description	Ad Tag Line	Ad Size	Amount
	NOTICE OF NOTICE OF INTENT TO ISSUE CEASE AND DESIST ORDERTO: DAVID JOSEPH TRAINA			
0238497203	Misc.		1/4.25	227.63
	Run Date(s)	12/22/2014		
		PROOF FEE		2.00

12/29/2014
01/05/2015
01/12/2015

Subtotal: 229.63

Total Amount Due: \$229.63

I am the Contract Manager and the provided information is true and correct, the goods and services have been satisfactorily received and payment is now due. I understand that the office of the State Financial Officer reserves the right to require additional documentation and/or to conduct periodic post-audits of any agreements.

Signature

Date

1/15/15

RECEIVED
FL. DEPT. OF FINANCIAL SERVICES
DIV. OF LEGAL SERVICES

15 JAN 15 AM 10:29

Payment by Credit Card	() Visa () MC () Amex
Account #: _____	Exp. Date: ____/____/____ Security Code: _____
Card Holder Name: _____	Signature: _____

For billing questions, please call:

PAST DUE BALANCES WILL

EXHIBIT

305-347-6616

Fax: 305-371-4913

WITH SERVICE CHARGE (18% PER ANNUM).

tabbier

B

M
company