

FILED

JUN 17 2015

Docketed by MC



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF:

CASE NO.: 162806-14-AG

SAMUEL A. DAVIS
_____ /

ORDER TO CEASE AND DESIST

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 March 31, 2015, and being fully advised in the premises, finds that:

1. On March 31, 2015, a Notice of Intent to Issue Cease and Desist Order (“Notice of Intent”) was issued against SAMUEL A. DAVIS (“Respondent”) alleging that Respondent, an unlicensed person, was acting in the capacity of a bail bond agent and transacting bail bond insurance business in violation of section 648.30(1), Florida Statutes.

2. The Chief Financial Officer, as head of the Department of Financial Services, entered a Consent Order on June 4, 2013, which suspended Respondent’s limited surety agent license. While under suspension, Respondent’s limited surety agent license expired on April 7, 2014.

3. The Notice of Intent further alleged that Respondent, during and after the period his limited surety agent license was suspended and subsequently expired, repeatedly held himself out to be an employee of Liberty Bail Bonds and transacted bail bond business.

4. Respondent was notified by the Notice of Intent of the right to request a proceeding in accordance with sections 120.569 and 120.57, Florida Statutes, and that failure to answer the Notice of Intent or request a proceeding within twenty-one (21) days would result in the entry of an Order to Cease and Desist.

5. Service was obtained on May 13, 2015, by certified mail in accordance with section 626.9571(3), Florida Statutes.

6. Respondent 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

7. The factual allegations contained in the Notice of Intent, 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

8. Based upon the Findings of Fact adopted herein, the Department concludes that Respondent violated the specific statutes and rules charged in each count of the Notice of Intent, attached hereto as "Exhibit A," and hereby adopts the violations charged in each count of the Notice of Intent as the Conclusions of Law in this case.

PENALTY IMPOSED

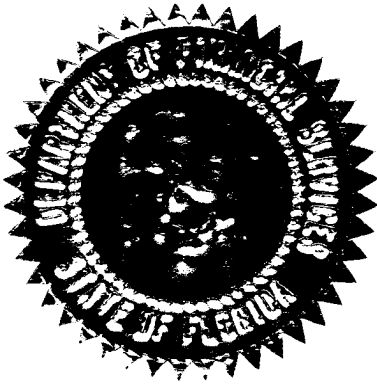
9. Respondent's failure to answer the Notice of Intent and failure to dispute any of the Department's factual allegations in the Notice of Intent, taken together with the Findings of Fact and Conclusions of Law adopted herein, constitutes grounds for the Chief Financial Officer to enter an Order to Cease and Desist against SAMUEL A. DAVIS.

IT IS THEREFORE ORDERED that:

- (a) SAMUEL A. DAVIS shall cease and desist from acting or operating as a bail bond agent and transacting bail bond insurance business in Florida.
- (b) SAMUEL A. DAVIS shall cease and desist from engaging in fraudulent or dishonest practices in the conduct of business under the license or appointment.
- (c) SAMUEL A. DAVIS shall cease and desist from 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.
- (d) SAMUEL A. DAVIS shall cease and desist from willfully failing to comply with or willfully violating any proper order or rule of the department or willfully violating any provision of the Florida Insurance Code.
- (e) SAMUEL A. DAVIS shall cease and desist from employment by any bail bond agent, holding an ownership interest in any business involving bail bonds, or having any financial interest of any type in any bail bond business.
- (f) SAMUEL A. DAVIS shall cease and desist from violating the Florida Insurance Code, including but not limited to those provisions specifically cited in the Notice of Intent.
- (g) The Department provides notice to SAMUEL A. DAVIS 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 SAMUEL A. DAVIS if he does not comply with this Order to Cease and Desist.

(h) 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 17th day of June, 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 pursuant to section 120.68, Florida Statutes, and Florida Rule of Appellate Procedure 9.110. Review proceedings must be instituted by filing a petition or notice of appeal with Julie Jones, DFS Agency Clerk, at 612 Larson Building, 200 East Gaines Street, 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.

Copies Furnished To:

SAMUEL A. DAVIS
2438 Fowler Street
Fort Myers, Florida 33901-5110

SAMUEL A. DAVIS
4520 Varsity Circle
Lehigh Acres, Florida 33974-9512

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

CONOR J. MCLAUGHLIN
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399-0333



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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IN THE MATTER OF

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SAMUEL A. DAVIS

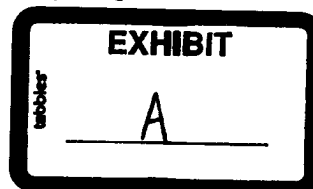
NOTICE OF INTENT TO ISSUE A CEASE AND DESIST ORDER

TO: Samuel A. Davis
2438 Fowler Street
Fort Myers, Florida 33901-5110

Samuel A. Davis is hereby notified that the Chief Financial Officer of the State of Florida has caused to be made an investigation of the bail bond insurance-related activities of Samuel A. Davis in this state, and as a result of that investigation it is alleged:

GENERAL ALLEGATIONS

1. Samuel A. Davis is not currently licensed or appointed to act as a limited surety agent or to engage in bail bond business in Florida.
2. Samuel A. Davis was licensed as a limited surety agent (2-34) in this state during the period of time beginning on February 10, 2010 until April 7, 2014. During that period of licensure, the limited surety agent license of Samuel A. Davis was suspended on June 4, 2013, for 120 days for unlawful solicitation of bail bond business. Samuel A. Davis was further placed on probation for 365 days, charged an administrative penalty of \$6,000.00 and legal fees of \$1,000.00. On August 20, 2013, Samuel A. Davis was issued an additional 90 day suspension for failure to pay the aforementioned administrative penalty and legal fees. On September 20, 2013, Samuel A. Davis was issued an additional 90 day suspension for continued failure to pay



the aforementioned administrative penalty and legal fees. While under suspension, Samuel A. Davis's license expired on April 7, 2014.

3. At certain times relevant to the allegations herein, Samuel A. Davis was an unlicensed person subject to the regulatory jurisdiction of the Department of Financial Services pursuant to sections 624.01 and 624.310(3)(a), Florida Statutes.

4. The Department of Financial Services ("Department") conducted an investigation of Samuel A. Davis.

COUNT I

5. Paragraphs one through four above are realleged and incorporated herein by reference.

6. At no time relevant to the dates and occurrences set forth herein was Samuel A. Davis licensed to transact bail bond business in this state.

7. On or about April 16, 2014, Samuel A. Davis did represent himself to be a licensed bail bond agent working with Liberty Bail Bonds in a telephone call to the Lee County Sheriff's Office.

8. Beginning on June 7, 2013, and continuing until June 24, 2014, Samuel A. Davis made and identified himself in at least twenty-three (23) separate telephone calls to the Lee County Sheriff's Department concerning bail bond business.

9. On or about August 19, 2014, L.R., a Department employee, visited Liberty Bail Bonds and witnessed Samuel A. Davis speaking with consumers and discussing bail bond business over the telephone.

10. It is a violation of chapter 648, Florida Statutes, for an unlicensed person, including those persons whose license has been suspended or revoked, to act in the capacity of a

bail bond agent, temporary bail bond agent, or perform any of the functions, duties, or powers prescribed therefore.

IT IS THEREFORE CHARGED that Samuel A. Davis has violated or is accountable under the following provisions of the Florida Insurance Code:

a. Section 648.30(1), Florida Statutes, which provides that a person may not act in the capacity of a bail bond agent or transact bail bond insurance business as authorized under chapter 648, Florida Statutes, unless that person is qualified, licensed, and appointed as provided in chapter 648.

b. Section 648.30(4), Florida Statutes, which provides that violating section 648.30(1), Florida Statutes, constitutes a third degree felony.

c. Section 648.45(2)(g), Florida Statutes, which provides that it is a violation to engage in fraudulent or dishonest practices in the conduct of business under the license or appointment.

d. Section 648.45(2)(j), Florida Statutes, which provides that it is a violation to willfully fail to comply with or willfully violate any proper order or rule of the department or to willfully violate any provision of this chapter or the insurance code.

e. Section 648.45(2)(p), Florida Statutes, which provides that it is a violation to demonstrate a course of conduct or practices which indicate that the licensee is incompetent, negligent, or dishonest or that property or rights of clients cannot safely be entrusted to him or her.

f. Section 648.50(3), Florida Statutes, which provides that no person whose license as a bail bond agent or temporary bail bond agent has been revoked or suspended shall be employed by any bail bond agent, have any ownership interest in any business involving bail

bonds, or have any financial interest of any type in any bail bond business during the period of revocation or suspension.

g. Section 648.9571, Florida Statutes, which provides, in part, for a proceeding when the Department has reason to believe that an individual has engaged in or is engaging in the business of insurance without being properly licensed under the Florida Insurance Code.


h. Section 626.9581, Florida Statutes, which provides, in part, for the issuance of a Cease and Desist Order against an individual who has engaged in or is engaging in the business of insurance without being properly licensed.

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

Samuel A. Davis is further notified that section 626.9601, Florida Statutes, provides 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.

DATED and SIGNED this 31st 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 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, DFS 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 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 MAY 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 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 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 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 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 during the time frame in which you have to request a hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing NOTICE OF INTENT TO ISSUE A CEASE AND DESIST ORDER, NOTICE OF RIGHTS, and the following ELECTION OF PROCEEDING have been furnished to SAMUEL A. DAVIS, at 2438 Fowler Street, Fort Myers, Florida 33901-5110, sent by Certified Mail, restricted delivery, return receipt requested, this 31st day of March, 2015.


CONOR J. MCLAUGHLIN
Fla. Bar No. 0084477
Division of Legal Services
612 Larson Building
Tallahassee, Florida 32399-0333
(850) 413-4236
Conor.McLaughlin@myfloridacfo.com

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF LEGAL SERVICES

IN THE MATTER OF:

SAMUEL A. DAVIS

ELECTION OF PROCEEDING

I have received and have read the Notice of Intent to Issue Cease and Desist Order, including the Notice of Rights contained therein, filed against me by the Florida Department of Financial Services ("Department"), 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's may issue a cease and desist order against me.
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 THIS NOTICE OF INTENT TO ISSUE CEASE AND DESIST ORDER. 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 NOTICE OF INTENT TO ISSUE CEASE AND DESIST ORDER.

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: _____

Print Name _____
Address: _____

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.: _____

E-mail address: _____