

INSURANCE *Insights*

DIVISION OF AGENT AND AGENCY SERVICES

Volume 4, No. 2 - February 2015

Protecting Your Personal Information During Data Breaches

Dear friends,

Recently, a cyber-security breach happened that affected the national health insurance company Anthem, Inc., whose largest Florida subsidiary is Amerigroup. In response to this incident, our department has taken proactive steps to provide consumer information related to potential scams that may arise as a result of this data breach.

Our Consumer Helpline, which provides consumer information on insurance-related matters, has added information on the breach to its [Consumer Alerts web page](#), and has allocated resources to accommodate your calls about this topic.

While Anthem, Inc. is working to determine which policyholders may have been impacted by the breach, it is important to note that Anthem will **only** contact impacted members by written communications via postal mail, not by phone or electronic communications. The company has announced plans to begin mailing letters in the coming weeks.

To protect yourself from any potential scam, do not provide personal or financial information to persons claiming to be Anthem representatives via email or by phone. If a call or email comes in:

- DO NOT click on any links or attachments contained within the email message.
- DO NOT reply to the email or reach out to the senders in any way.
- DO NOT supply any personal information online or by phone.

Amerigroup policyholders may wish to proactively monitor their credit and bank accounts, and consider contacting the credit bureaus Equifax, TransUnion and Experian to add a fraud alert to their accounts, which would require an additional layer of identity verification before processing any new credit applications.

Anthem will provide free credit monitoring services to those who were impacted by the data breach. For more information or questions related to the breach, please call Anthem's toll-free hotline at 1-877-263-7995 or visit www.anthemfacts.com, a website specifically set up to address the breach.

VERIFY
BEFORE ✓
YOU SELL

Agents should **routinely** verify the licensure of the companies for which they're selling. If you suspect an entity is not authorized or licensed to transact insurance in Florida, from Florida or with residents of Florida, please notify our office. Report suspected unlicensed activity. Call 877-MY-FL-CFO (1-877-693-5236).
[Read more >>](#)

Floridians with questions may contact the Consumer Helpline by calling 1-877-MY-FL-CFO, or 1-877-693-5236, available Monday – Friday from 8:00 a.m. – 5:00 p.m. EST.

I am proud to offer these layers of consumer protection, and to work hard each day to ensure that all of Florida's consumers have the information they need to make informed financial and insurance decisions.



Jeff Atwater
Chief Financial Officer
State of Florida



News You Can Use

- Updating you on what's going on

Multi-Agency Unlicensed Contractor Sting in Manatee County Nets 11 Arrests

The Florida Department of Financial Services announced the recent arrest of 11 individuals in Manatee County for unlicensed contracting and engaging in construction work without workers' compensation insurance. The Division of Insurance Fraud, in partnership with the Department of Business & Professional Regulation, the Manatee County Sheriff's Office, Holmes Police Department and Manatee County Code Enforcement executed the sting over a three-day period, calling for contractors to perform services at an uninhabited home in Manatee County.

[Click here to read the press release >>](#)

The Florida Department of Financial Services Announces Final Resolution in \$35 Million Central Florida Mortgage Fraud Case

A joint investigation conducted in partnership by the Florida Division of Insurance Fraud and the Federal Bureau of Investigation, that was later prosecuted by the United State Attorney's Office for the Middle District of Florida, culminated this week with final restitution ordered of more than \$12 million and sentences for James Sotolongo, Christopher Mencis, and Stephanie Musselwhite for their roles in a mortgage fraud scheme that defrauded lenders out of more \$35 million.

[Click here to read the press release >>](#)

Florida Department of Financial Services Prepared to Assist Consumers Affected by Anthem Data Breach

In response to a cyber security breach of the national health insurance company Anthem Inc., the Florida Department of Financial Services has taken proactive steps to provide consumer information regarding potential scams that may arise as a result of the data breach. The Department's Consumer Helpline, which provides consumer information on insurance-related matters, has taken measures to accommodate anticipated higher call volumes and has added information on the breach to its Consumer Alerts web page.

[Click here to read the press release >>](#)

Department of Financial Services Announces Arrest of Orange Park Bail Bondsman

The Florida Division of Insurance Fraud announced the arrest of an Orange Park bail bondsman after an agency investigation revealed that David Gartenbush, Jr. allegedly engaged in illegal activity by acting as a bail bondsman without an active license. In addition to being charged with unlicensed activity, charges of false imprisonment and aggravated assault have also been filed against him. Two others were charged with assisting him and the agency's Division of Agent & Agency Services will be suspending their professional licenses.

[Click here to read the press release >>](#)

The Department of Financial Services Announces License Revocation and \$140,000 Fine for Fort Myers Insurance Agent's Misrepresentations to Florida Seniors

Chief Financial Officer Jeff Atwater announced the revocation of Fort Myers insurance agent Gregory Sample's license after an investigation revealed that Sample engaged in unethical and illegal business practices that ultimately duped several of his clients, most of whom are seniors, to lose money from their annuity contracts. In addition to having his license revoked, the action will render Sample permanently barred from both direct and indirect participation of any kind in the insurance industry and ordered to pay a \$140,000 fine. The Division of Administrative Hearings determined that he made willful misrepresentations and is not trustworthy. Sample has appealed the ruling.

[Click here to read the press release >>](#)

Unfair Insurance Trade Practices - Sliding Travel Insurance

The Florida Office of Insurance Regulation ("Office") recently issued an informational memorandum reminding insurers of the Florida Unfair Insurance Trade Practices Act ("Act") and its requirement that insurers refrain from engaging in practices that constitute unfair methods of competition or unfair or deceptive acts or practices, including the act of "sliding."

The Office has been made aware that some insurers, offering travel insurance through retail travel agencies in conjunction with travel purchases made via websites, require consumers to opt out of purchasing ancillary travel insurance by deselecting a radio button or check box. If a consumer does not deselect the insurance offering on the website, the cost of the coverage is automatically added to the consumer's total purchase.

"Sliding" is defined in the Act as "charging an applicant for a specific coverage or product, in addition to the cost of the insurance coverage applied for, without the informed consent of the applicant." The practice of automatically charging consumers for ancillary travel insurance unless consumers take action to decline coverage does not comply with the requirement of "**informed consent**." Consumers must be given the opportunity to **affirmatively accept** travel insurance or any other insurance coverage.

Insurers are liable for the actions of agents and others selling their products that engage in sliding, or otherwise fail to comply with the Unfair Insurance Trade Practices Act.

[Click here to read the informational memorandum >>](#)

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In The Know

- Keeping you informed is what it's all about

Contracts Between Insurance Agents, Agencies, and Insurers

We are often asked to provide assistance to licensees that are involved in contractual disputes with agencies, insurers or others they have contracted with to perform insurance sales and other services. The Department is not a party to those contracts and has no jurisdiction related to disputes between the parties. Licensees may want to consult with legal counsel to explore their options through the civil process.

Commission Payment Disputes

Related to the topic of licensee-agency-insurer contracts are commission disputes, the most common employment related complaint brought to us by agents. Because payment (and non-payment) of commissions are generally addressed in written or verbal agreements with agencies, MGAs, insurers and others, any dispute must be resolved between the parties or through the civil process of law.

The Department does not enforce payment of commissions to any licensee by any other licensee or insurer, with one exception. Licensees are required to return commissions that were paid on premium that is later unearned. Commissions are part of premium, and failure to return unearned commissions to an agency or insurer is a form of misappropriation of premium.

How to Locate a Final Order on the Department's Website

There are two ways to locate enforcement actions from the [Division of Insurance Agent & Agency Services' website](#):

Under "Quick Links" on the division's website, click on the "Enforcement Actions" link to view the most recent actions posted. If you need a previous order, click on "Division of Legal Services' database" on the same page under "Important Note" and you will be redirected to a search portal. In the search field for "Style" you may enter the name of the disciplined individual or entity. Please note that it may take a couple of weeks after entry of the action for the document to be available online.

Copies of previous and current enforcement action documents, which include the allegations, can be located by searching the [Division of Legal Services' database](#). For further information, you may make a public records request via [email](#) or contact the [Public Records Unit](#).

Education Central

- Things to know about your continuing education

Are You Compliant with Your CE or Not?

If you have ever felt confused about what it means to be continuing education (CE) compliant, you are not alone. That's why we are continuously finding and implementing ways to help you with this. To be CE compliant requires more than just taking CE courses. Below are a few often overlooked suggestions for remaining CE compliant.

- CE requirements change. You should regularly review your CE status through your [MyProfile](#) account. Your total hours have specific allocation requirements that must be met. Be sure to take all the right categories of CE courses.
- Check for late hours. Hours taken after your due date will still post on your compliance evaluation screen, but they will be noted as "Late". Though your hours requirement may have been met, late completion of your continuing education requirement will result in penalties. The statutory penalty for failure to complete CE is the cancellation of all your appointments, however you may be given the option of paying a \$250 fine instead. Regardless of the penalty assessed, you are still required to complete past due CE requirements.
- Check prior evaluation periods. Always check previous compliance periods to make sure you are not delinquent for a prior period. Be sure to click on **VIEW ENFORCEMENT NOTICE** just below the **Not Compliant** text to check for any outstanding fines.
- Check your transcript. The **same course** cannot be taken with the **same provider** within a three-year period and receive credit. This is noted on your transcript as a duplicate course. You will need to take a different course to meet your CE requirement.

We wish you success in completing your hours to remain knowledgeable in an ever-changing insurance market. And remember, your CE compliance date is your **DUE** date, not your **DO** date.

How to Search for Approved CE Courses

Looking for continuing education (CE) courses to be sure you get all your hours completed? Our online course search can easily help you by listing those courses approved by the Department.

1. Go to our website at www.MyFloridaCFO.com/Division/Agents.
2. Click on **MyProfile** on the left panel and log in to your account.
3. Once in your MyProfile inbox, click on **Locate** at the top left. Then click on **Future Course Offerings**.
4. Select the **Course Authority** for the type of license held or course you need to take.
5. You can also make other choices, like **Study Method** and **Location**, to narrow your search results.
6. If you click on **Perform an Advanced Search**, you will have additional options to narrow your search results, such as **Course Date** and **Course Level**.

Because many factors may affect your continuing education requirement (e.g. licenses held, number of years licensed, etc.), we encourage you to periodically check your [MyProfile](#) account to determine your individual continuing education compliance requirements and status. You will also be able to find more approved CE courses after logging in to your [MyProfile](#) account versus the [public search option](#), which limits the results to the first 100 course offerings.

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Compliance Corner

This section has been created to assist you in keeping your insurance business in compliance. The items are intended as reminders only and are not necessarily the exact text of the [Florida Statutes](#) or [Florida Administrative Code](#). The legal cites have been provided for your further reference.

Seeking Reimbursement from Consumers for Insufficient Funds (NSF) and Bank Wire Fees

Nothing in the Florida Insurance Code prohibits a licensed insurance agency from obtaining reimbursement from consumers for returned check charges, also known as NSF fees. However, your agency should be certain the fee charged is lawful and does not exceed the actual fee charged to the agency. Agencies should ensure that consumers are aware of the amount and circumstances when a fee will be charged in the event of a returned item. If wired funds are used at the consumer's request to pay premiums, agencies can lawfully seek reimbursement for the wire fees up to the amount charged to the agency for the incoming wire.

Acceptable Premium Check Payees

The Florida Insurance Code does not address what entities or persons premium checks can be made payable. The Department recommends that all premium checks be made payable only to agencies with a designated premium bank account or to the insurer providing the insurance coverage. Agents are strongly cautioned not to ask for or accept a check payable to him/her individually as doing so could lead to charges of misappropriation of fiduciary/premium funds, a violation that could result in the revocation of the agent's license.

Issuing Certificates of Coverage from Master Contracts/Policies

Recently, the Department has received a number of inquiries asking if agents can charge employers or others a fee to issue a Certificate of Coverage after the original enrollment period. The commissions paid to an agent for writing the Master Contract or policy are intended to compensate the agent for all routine service work. Issuance of Certificates of Coverage is considered a routine service to be provided by the writing agent or his agency staff, and it is unlawful to charge an additional fee.

The Florida Information Protection Act of 2014 ("FIPA")

The Department has received inquiries from licensees asking how the laws under Section [501.171](#), F.S., the "Consumer Protection statute" may impact them. The laws expand the requirements of business and government entities that maintain data to protect it and provide prompt notice of any breach. For more information about the laws, please read about the FIPA in the Florida Statutes by [clicking here](#).

The laws apply to breaches of the personal information belonging to Florida residents. Notifications of breaches are to be made as required by the laws. The Florida Department of Agriculture & Consumer Services, Division of Consumer Services has jurisdiction related to the FIPA. For more information please visit the Florida Department of Agriculture & Consumer Services' website at [FreshfromFlorida.com](#).

Title Agencies: The 2015 Data Call

This is the first year title insurance agencies are required to submit information to the Florida Office of Insurance Regulation (OIR) under the data call required by section 627.782, Florida Statutes. Title agencies have until June 1, 2015 to make their submission to the OIR. The OIR has sent an email to each licensed title agency in Florida to remind them of the new law with instructions on how to complete the process accurately.

The Title Agency Data Call is performed by the agency first downloading the template from the OIR website to complete offline. To do this, the agency will need to create an account and subscribe to your agency in the Data Collection and Analysis Modules (DCAM) used by the OIR, which is located at <https://apps.fldfs.com/DCAM/Logon.aspx>.

(The user's guide for DCAM is located at: <https://apps.fldfs.com/DCAM/Help/DCAMUserGuide.pdf>)

Once the agency's data template form is completed and the agency is ready to certify it is accurate, it is then that the agency must upload the form to the OIR before the deadline, June 1, 2015.

The data template has seven tabs or worksheets:

1. **Version:** includes the OIR contact information and reporting date reminder
2. **Instructions:** data template must be downloaded from DCAM for the purpose of reporting information
3. **Report_Lines:** Two columns extend down a series of questions and required responses (enter either text or numeric in the two columns, as shown)
4. **Schedule A:** Additional agency information
5. **Schedule B:** Agent activities
6. **Schedule C (Residential):** Title agent statistical information submission for 1-4 residential units
7. **Schedule C (Commercial):** Title agent statistical information submission for commercial units

Each agency's submission must contain a Filing Certification signed by an agency officer (electronic signature accepted), stating the information provided is accurate to the best of their knowledge and belief. A sample copy is available on the OIR's website at:

www.floir.com/siteDocuments/CertificationOfTitleDataSubmissionExample.pdf

The agency may include a cover letter, but this is an optional component for the filing.

Each agency is encouraged to include any additional or optional information that is deemed important to the overall submission. These optional items may be uploaded as PDF documents under the "Other Information/Documents" component.

It is important to know that the agency's submission is not considered to be complete until the agency receives an email receipt showing the agency's file log number.

If you have any questions regarding this filing process, please contact the OIR's Market Data Collections Unit at 850-413-3147 or via email: TitleAgencyReporting@flor.com.

Bail Bond Build Up Fund Accounts

The Florida Statutes require each insurer authorized to write bail bonds in this state and each managing general agent to furnish to the Department a certified copy of a statement listing each build-up trust account and the balance therein by March 1 of each year. These statements are to be sent to:

Florida Department of Financial Services
Division of Agent & Agency Services
Bail Bond Section
Larson Building # 412
200 E. Gaines Street
Tallahassee FL 32399-0320

The statements may also be sent via email by scanning and sending the statements to BailBond@MyFloridaCFO.com.

Companies and managing general agents who do not maintain build-up fund accounts for their agents may want to submit a statement to that effect to the same address to confirm a filing is not required.

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Case Notes

The following are instances in which licensees or other persons violated the Florida Insurance Code and the administrative action the Department has taken against them. Note: All administrative investigations are subject to referral to the [Division of Insurance Fraud](#) for criminal investigation.

Case: An investigation of a life, health & variable annuity agent alleged she teamed up with an unlicensed agent from another state to sell annuity products to Florida consumers that had an unfair advantage over other annuities sold in Florida. The agent and her partner convinced 11 Florida consumers to invest in annuities and sign applications affirming that they were signed by the consumer in the other state. The consumers were told that the agent had an out of state office and that by signing it as an out of state sale would provide the consumer with additional benefits, which also led them to believe the transaction was lawful.

Disposition: License revoked of the Florida agent. A Notice of Intent to Issue a Cease and Desist Order was ordered against the unlicensed person.

Case: An investigation of a bail bond agent alleged that while he was working at an agency owned by his father, who was also the primary agent, he had altered several bonds. He had taken a copy of a previously executed power, changed the number on the power, and then delivered it to the jail. The altered bonds were not reported to the surety company, as the original power has been reported, and the agent would pocket any premium received. Staff at the jail reported the suspicious bonds to the surety company's managing general agent who in turn notified the Department.

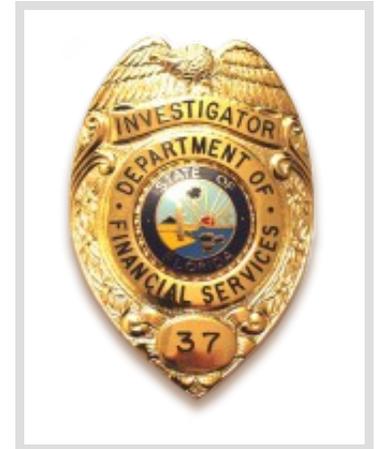
Disposition: Licenses revoked for both bail bond agents.

Case: An investigation of a life including variable annuity agent revealed where he had started a pattern of selling automobile insurance to consumers though he did not hold the proper general lines agent license type and appointment. The agent was enrolling consumers with an online insurance company by accessing the insurer's website and even charged the consumers for his "service".

Disposition: Fined \$2,500 and placed on probation for one year.

Case: The Department received a Public Adjuster Apprentice Employment Report from a supervising public adjuster. The report submitted certified that an apprentice had worked for the adjuster after the expiration of the apprentice's temporary license. In addition, the supervising public adjuster had never appointed the apprentice.

Disposition: Fined \$500.



Case: An investigation of a life, health & variable annuity agent alleged that he offered residents a \$100 meal card as an inducement in exchange for a "no obligation private consultation" with him to review their finances and to generate interest in the purchase of an insurance policy. He provided each of the participants a form to complete that prominently displayed the restaurant offer and solicited contact information and a signature from each participant.

Disposition: Placed on probation for two years and ordered to pay costs of \$2,500.

Case: An investigation of a life & variable annuity agent alleged she submitted multiple life insurance applications to an insurer that contained invalid social security numbers, questionable bank information, nonworking phone numbers, and questionable or forged signatures on many of them. When the insurer questioned the agent about the applications, she admitted the forgeries and begged the insurer for a second chance.

Disposition: License revoked and the insurer terminated the agent's appointment.

Case: An investigation of a title insurance agent alleged that she failed to charge the proper rates for title insurance policies, overcharged consumer for recording fees, and offered illegal inducements for the referral of title insurance business by sponsoring open houses for real estate brokers.

Disposition: Fined \$5,000 and placed on probation for one year.

Case: An investigation of a life & health agent revealed he was not authorized to administer continuing education tests but a now-defunct CE provider allowed him to do so. The agent would hand out the tests and provide answers to CE course exam questions to test-takers.

Disposition: Fined \$2,500 and placed on probation for one year.

Case: An investigation of a title insurance agency revealed where it had not paid the \$200 annual title administrative surcharge by January 30 as required of all title agencies.

Disposition: Fined \$500 in addition to having to pay the \$200 surcharge.

Enforcement Actions

- January 2015

Some of the following enforcement actions were resolved through a settlement process resulting in an order for discipline. Notification of enforcement actions is in the public interest. While every effort is made to provide correct information, our readers are cautioned to check with the Department before making a decision based upon this listing. This listing does not reflect pending appeals or requests for hearings. The license or registration status may have changed since the filing of these orders. We suggest that you search the [Licensee Search](#) or make a [public records request](#) to verify the current status of any license or registration.



IMPORTANT NOTE: Copies of previous and current enforcement action documents, which include the allegations, can be located by searching the [Division of Legal Services' database](#). For further information, you may make a public records request via [email](#) or contact the [Public Records Unit](#).

Warning: No part of this listing may be used by a licensee to gain an unfair competitive advantage over any person named herein. Any licensee who does do so is in violation of Section 626.9541(1)(c), Florida Statutes.

LAST/BUSINESS NAME	FIRST NAME	LICENSE#	LICENSE TYPE	DISPOSITION	FINE	COST	CITY, STATE	DOCUMENT
Cataldo	Jeannie	P096011	Bail Bond	Probation and Fined	\$1,500		New Port Richey, FL	Search
Chappelle	Ashleigh	P139893	Customer Representative	License Revoked			Milton, FL	Order of Revocation
Coleman	Lanett	P008938	Bail Bond	Administrative Cost and Fined	\$3,750	\$3,750	Jacksonville, FL	Search
Edwards	Connie	A075688	Life, Health, Variable Annuity, General Lines, All-Lines Adjuster	Fined and Additional CE	\$5,000		Gainesville, FL	Consent Order
Enamorado	Samuel	W009537	Life, Variable Annuity	Probation and Fined	\$2,500		West Palm Beach, FL	Search

Fistel	Charles	E004606	Life, Variable Annuity	License Suspended 9 Months			Coral Gables, FL	Order of Suspension
Fucinari	Lawrence	E135867	Public Adjuster	License Suspended 3 Months			Huntington Woods, MI	Order of Suspension
Gonzalez-Roel	Lucia	W041838	Life, Health, Variable Annuity	License Suspended			Tampa, FL	Search
Halali	Behnam	W195265	Life, Health, Variable Annuity	License Suspended			Morgan Hill, CA	Search
Horowitz	Michael	W011225	Life, Variable Annuity	License Revoked			Beverly Hills, CA	Consent Order
Keever	Tyson	P068199	Public Adjuster	License Suspended 3 Months			Boca Raton, FL	Order of Suspension
Kurit	Bradley	E110610	Life, Health, Variable Annuity, Personal Lines	License Revoked			West Palm Beach, FL	Search
Napier	Kaitlynn	W087125	Customer Representative	License Revoked			Orlando, FL	Order of Revocation
On Call International, LLC		P062210	Managing General Agent	Probation and Fined	\$1,500		Salem, NH	Consent Order
Pitino	Randal	P155078	Public Adjuster	License Suspended 3 Months			Palm Beach Gardens, FL	Order of Suspension
Qawasmi	Khaled	E080781	Life, Variable Annuity	License Revoked			Miami Lakes, FL	Final Order
Rivera	Ramon	W112859	Public Adjuster	License Suspended 3 Months			Fort Lauderdale, FL	Order of Suspension
Robles	Tracy	E064847	Life, Variable Annuity, Customer Representative	License Revoked			Tampa, FL	Order of Revocation
Tranum, Jr.	Wallace	No License		Cease & Desist			Deltona, FL	Consent Order
Tuttle	Kevin	A269814	Life, Variable Annuity	License Suspended 2 Months			Orlando, FL	Order of Suspension
Valdes	Oscar	E034575	Public Adjuster	Fined	\$1,000		Miami, FL	Search

Wade	William	A275167	Bail Bond	License Revoked			Old Town, FL	Order of Revocation
Webster	Kevin	E083382	Life, Health, Variable Annuity, General Lines	License Suspended			Pensacola, FL	Notice of Temporary Suspension
Yucht	Lawrence	P104584	Public Adjuster	License Suspended 3 Months			Deerfield Beach, FL	Order of Suspension
Zeidman	Lance	A293557	Life, Health, Variable Annuity	Probation and Fined	\$1,500	\$2,000	Boca Raton, FL	Search

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Contact Us

- We're always here for you

Bureau of Licensing

AgentLicensing@MyFloridaCFO.com - For general inquiries about licensing.

Education@MyFloridaCFO.com - For education-related questions (prelicensing, continuing education, providers, etc.)

[MyProfile](#) - Check your up-to-the-minute application status, education information, and more.

Licensees are reminded to update any change in their name, addresses (including email) or phone numbers by logging in to their [MyProfile](#) account. If you also have an agency license, don't forget to log in to your agency's MyProfile account and update it as well.

*200 East Gaines Street
Larson Building, Room 419
Tallahassee, FL 32399-0319*

Bureau of Investigation

Title@MyFloridaCFO.com - For title insurance matters

BailBond@MyFloridaCFO.com - For bail bond matters

askDFS@MyFloridaCFO.com - For all other matters not related to licensing or education

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