

## Protecting Yourself from Fraud

Dear friends,

As the world turns and technology continues to advance, so does the ever-present threat of fraud in our lives. Whether it's shopping online or buying a new insurance policy or even a telephone call from a stranger, we must do our part to help protect ourselves and our private information from those who may want to take it. Fraud knows no boundaries and impacts Floridians of every age and income level. Each year, fraud costs consumers billions of dollars in higher fees, taxes and insurance rates that are collected to cover losses from fraudulent transactions.

Our Department works to cut down the cost of fraud each and every day in a variety of ways, some of which you may already know and some you may not.

Our [Division of Insurance Fraud](#) takes fraud head on by investigating a host of insurance-related crimes. From staged car accidents to fake water leaks for insurance payments to employers who fail to adequately protect their employees with workers' compensation coverage, our investigators are working in every corner of our state to root out and address these crimes that are driving up our insurance rates. We're making great strides, averaging four arrests per day, taking four more fraudsters out of your pockets. If you see something, say something. To report suspected insurance fraud, please call 1-800-378-0445.

Our [Division of State Fire Marshal](#) works to solve cases of suspicious fires in our state. You may not know that one of the primary reasons people intentionally start fires in our nation is in hopes of collecting the insurance money tied to the property they've destroyed. It happens more often than you'd think--since 2011, we've made nearly 1,500 arson arrests. If you have information regarding a fire you believe to be suspicious, tell our investigators by calling 1-877-662-7766.

Our [Division of Public Assistance Fraud](#) fights against those who try to cheat our public benefits system, which is designed to temporarily help Floridians through their time of need. Just last fiscal year, we opened 232 slots for hard-working families to enroll their children in daycare services so they can go to work to provide for themselves. When people steal these benefits, it takes away from another family in need. In total, we've stopped more than \$167 million worth of public assistance fraud in the last four-and-a-half years. If you think someone is cheating the public assistance system, please report it by

**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 >>](#)



calling 1-866-762-2237.

Lastly, and the one area I encourage you to become familiar with, is our [Division of Consumer Services](#), which works 365 days a year to assist and inform you and your loved ones about fraud and scams of all types.



Here are just a few of the services they provide:

- Insurance Consumer Helpline: Consumers can chat with an insurance expert to get advice about the purchase of a new policy, to go over coverage limits, or to ask for help during the claims process.
- Mediation Services: Are you dissatisfied with the response you're getting from your carrier? Was your claim denied? Do you think your claim was not handled properly? Our insurance experts will reach out to your insurance company on your behalf to help you get the coverage you deserve.

Tools are available all-day, every day by visiting our website at <http://www.myfloridacfo.com/Division/Consumers/>. To speak with an insurance expert or to request help with a claim, give us a call at 1-877-693-5236.

With the holidays quickly approaching, scammers tend to come out of the woodwork to try to steal your hard-earned cash. Stay on guard and give us a call if you need some assistance.

Sincerely,

Jeff Atwater  
Chief Financial Officer  
State of Florida



## News You Can Use

- Updating you on what's going on

### **Clearwater Insurance Agent's License Stripped After Ruling in First District Court of Appeals**

Florida CFO Jeff Atwater announced that William "Bill" Pearson, 64, has been stripped of his insurance license for charging an illegal, unauthorized fee to a deceased veteran's senior widow and conducting transactions that cost her thousands of dollars in annuity surrender charges. This follows a nearly yearlong appeal by Pearson to the First District Court of Appeals (DCA) that the Department successfully fought.

On February 5, 2015, Pearson's license was suspended for 15 months following a recommendation by an administrative law judge with the Division of Administrative Hearings. He appealed to the First DCA and on May 14, 2015, the suspension was stayed which allowed him to continue transacting insurance during the appeal process, with the exception that he could not solicit to persons over the age of 60. Each member of the DCA's three-judge panel agreed that the suspension should be upheld. Following the suspension period, Pearson will have to apply for reinstatement.

In July 2010, another insurance agent, Glenn Cummings, gained the victim's trust and referred her to Pearson in order to liquidate and consolidate her investments. She later testified that no one ever explained investment options or consequences, which Pearson also acknowledged. As part of the rollover transactions that occurred, the senior incurred thousands of dollars in annuity surrender charges. That's when the Department's Division of Agent and Agency Services stepped in. The Department mandated that Cummings pay restitution to cover the losses the victim incurred, and his license was placed on probation.

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

### **State Fire Marshal's Office Arrests Serial Arsonist in Pensacola**

The Florida State Fire Marshal's Office, which operates under the direction of the Florida Department of Financial Services and CFO Jeff Atwater, announced the arrest of David McIntyre, 37, for a structure fire set in the Pensacola area.

On November 2nd, State Fire Marshal investigators from the Pensacola field office responded to and conducted a fire examination at 2009 East Olive Road in Pensacola. A building located near the rear of Ruth's Uniforms had burned and investigators determined that the fire had been set intentionally. A neighborhood canvas identified McIntyre as a possible suspect and witness statements led to an arrest warrant being filed for his arrest. Days later, he was arrested for arson without incident, bond was set at \$50,000, and McIntyre was ordered to wear a GPS monitor until trial.

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

## **Florida Health Insurance Advisory Board Adopts 2015 Florida Health Insurance Market Report**

The Florida Health Insurance Advisory Board (FHIAB) adopted the 2015 Florida Health Insurance Market Report via a conference call meeting held on Monday, November 16, 2015.

For more information about the FHIAB, visit <http://www.floir.com/Sections/LandH/FHIAB.aspx>.

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

## **Office Issues Final Order Approving Workers' Compensation Rates for 2016**

The Florida Office of Insurance Regulation (Office) has approved an overall decrease of 4.7% in workers' compensation insurance rates in Florida. Following the disapproval of its original rate filing request, the National Council on Compensation Insurance (NCCI) submitted additional information for the Office's consideration on Friday, November 6, 2015 (Office Statement). NCCI requested that the Office re-evaluate three specific items pertaining to its annual rate filing: expense constant, indemnity trend, and the profit and contingency factor. The Final Order issued today re-confirms the Office's denial of the requested modifications to the expense constant and indemnity trend. However, the Office granted an increase in the profit and contingency factor from the current approved 2.5% to 2.75%, which lowered the decrease in workers' compensation rates from 5.1% to 4.7% overall. The new rates become effective January 1, 2016 for both new and renewal workers' compensation rates.

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

## **Florida Office of Financial Regulation Supports Operation Collection Protection**

The Florida Office of Financial Regulation (OFR) announced their participation in Operation Collection Protection. Led by the Federal Trade Commission (FTC), Operation Collection Protection is a coalition of more than 75 local, state and federal enforcement and regulatory organizations committed to collaboratively addressing illegal debt collection practices.

"Protecting Floridians from illegal activity within the financial services industry is the Florida Office of

Financial Regulation’s highest priority,” said OFR Commissioner Drew J. Breakspear. “We remain committed to working with our state and federal partners in Operation Collection Protection to combat illegal debt collection practices.”

Operation Collection Protection is the latest initiative that seeks to elevate the integrity of debt collection across the nation. The OFR enforces Florida’s Consumer Collection Practices Act, which clearly defines prohibited practices when collecting consumer debts. In Florida, debt collection companies may not threaten violence, call before 8:00 a.m. or after 9:00 p.m., or disclose the debt to a third party. For more information on forbidden practices, please see the OFR’s Consumer Alert on Prohibited Debt Collection Practices. In 2013, the OFR supported legislation that was passed strengthening the registration requirements of consumer collection agencies by requiring a state and federal background check of all applicants. The background checks include live-scan fingerprinting and the retention of fingerprints, which provides the OFR immediate notification of an arrest. This law not only makes it more efficient to regulate these entities, but also helps to protect Floridians from bad actors.

View the FTC’s press release for a list of regulatory and enforcement actions included in Operation Collection Protection.

To report possible unlawful consumer collection activity, file a complaint online at [www.flofr.com](http://www.flofr.com) or call (850) 487-9687. You may also file a complaint online with the FTC at [www.ftccomplaintassistant.gov](http://www.ftccomplaintassistant.gov).

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

## **Duo Sentenced for Investment Fraud Scheme Arrests**

The Florida Office of Financial Regulation (OFR) announced the November 5, 2015, sentencing of Brian Newton and Victoria Snow for their role in defrauding more than 60 victims, costing them more than \$7.2 million. Newton was sentenced to 15 years and 8 months and Snow was sentenced to 4 years and 9 months. The perpetrators were ordered to pay more than \$7.2 million in restitution.

“The Florida Office of Financial Regulation is committed to fighting financial fraud and protecting your money,” said OFR Commissioner Drew J. Breakspear. “These egregious acts of fraud will not be tolerated.”

“Thank you to our partners in the U.S. Attorney’s Office for the Middle District of Florida and the Federal Bureau of Investigation for their assistance in this case,” said OFR Acting Chief of Financial Investigations Alex Toledo. “The outcome of this case is a direct result of the OFR’s diligent work with our partners.”

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

[Click to read more recent news >>](#)

## Make Sure You Don't Miss Important Information From Us

We highly recommend that licensees routinely check their [MyProfile](#) account(s) for messages from the Department. We send an email notification when a message has been sent to remind you to check your [MyProfile](#) account but on rare occasions you may not receive that email. For that reason, we suggest you add our domains **dfs.state.fl.us** and **MyFloridaCFO.com** to your email software's Trusted or Safe Senders List to ensure you are able to receive email notifications from us. Licensees who have a valid email address on file with the Department, as required by law, are sent important email notifications when something that affects their application, license, continuing education, or appointment(s) occurs. Additionally, we will keep you informed with warnings regarding new schemes and scams being marketed to licensees. You can update your contact information through your [MyProfile](#) account. We want to keep you informed in a timely manner of pertinent information. You are still required to abide by the Florida Insurance Code regardless of whether you read the information we provide or attempt to provide.

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## In The Know

- Keeping you informed is what it's all about

### Review Your Lender Closing Instructions Carefully

*We reviewed the following article recently published by the Florida Bar Realty and Trust Law Section, which shared important information with its members. We are sharing this with all of our licensees.*

Representatives of the title insurance industry regularly meet with officials from the Florida Office of Insurance Regulation ("OIR") and the Florida Department of Financial Services ("DFS") regarding the regulation of the industry. These meetings focus primarily on forms, rules, and related industry matters.

At a recent meeting, OIR officials focused comments on Sec. 626.9541(1)(a), F. S. That provision reads in pertinent part, "(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.-The following are defined as unfair methods of competition and unfair or deceptive acts or practices: (a) Misrepresentations and false advertising of insurance policies. Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any ... statement ... which: 1. Misrepresents the benefits, advantages, conditions, or terms of any insurance policy:"

OIR noted that some lender's general closing instructions require the title agent to make assurances about coverage that may not comply with Florida law, specifically Sec. 627.777, F.S., or Chapter 690-196, F.A.C. Affirmative coverage was cited as an area of concern.

For example, one major lender requires in their general lender closing instructions the following:

Express affirmative coverage against loss is required in connection with each exception which adversely affects the property, such as easements, encroachments, violations of restrictions, common walls, overhang of eaves, porches, decks, roofs, etc.

OIR officials indicated that the title agent that assents to such a closing instruction and agrees to give affirmative coverage over any easement otherwise excepted on Schedule B is possibly misrepresenting the terms of the policy that will ultimately be issued to the lender because such coverage can not be given. While the facts of a given title will control the final analysis, rarely are those available at the time the general loan closing instructions are presented. There was further discussion about the possibility that the requesting lender may violate the statute by making an inappropriate demand.

While we are unaware of any specific instances of enforcement by OIR or DFS against title agents or



attorneys, OIR has taken this position against casualty insurance agents that alter a homeowner policy binder or Evidence of Property Insurance ("EPI") to indicate to the lender that the policy covers "full replacement costs" or similar words that misrepresent the actual coverage.

The practice take away should be apparent. Pay attention to both general and special loan closing instructions and negotiate adjustments as appropriate. Failure to do so may result in substantial penalties under Sec. 626.9521, F.S. to both you and the requesting lender.

**James C. Russick**  
**V.P. Florida State & Gov't Affairs Counsel**  
**Old Republic National Title Insurance Company**

*(This article was originally published in the Fall 2015, issue of Action Line, a Florida Bar Real Property and Trust Law Section publication.)*

## **Citizens Accepting Electronic Signature Submissions**

On August 1, 2015, Citizens began accepting agents', applicants' and policyholders' electronic signatures (also called esignatures) on all required documents, with two exceptions that require "wet" signatures:

- Due to statutory requirements, policyholder statements to exclude windstorm coverage and/or contents coverage
- Notarized forms and required forms signed by a customer's authorized representative

Notes:

- Submitting esignatures on required documents is voluntary.
- Esignatures must be obtained through the use of third-party esignature providers.
- Forms signed with esignatures must be submitted to Citizens via PolicyCenter® and ePAS, as applicable.
- Agents and agencies using esignatures are responsible for all associated costs and for ensuring that such use complies with all applicable state and federal laws and regulations.
- Agents and agency principals are encouraged to review their respective Agent Appointment Agreement and Agency Agreement documents and must continue to comply with such agreements. In particular, note the provisions of the agreements pertaining to Records Custody and Retention and Citizens' Confidential Information.

The ability to use electronic signature is a request that has been on the Agent Roundtable (ART) action list for some time. The ART provided information about the electronic signature process, and several members participated in the pilot earlier this year. They are pleased that this request is now a reality.

*Note: This information was reprinted with permission from Citizens Property Insurance Corporation.*

## **Marking Emails from the Department as SPAM**

If a licensee marks an email notification from the Department as SPAM, they may not get our future emails but will still be held responsible for complying with the Florida Insurance Code. We have become aware that some licensees mark our communications as SPAM accidentally since they are quickly and



without much attention marking a lot of messages in their Inbox as SPAM. Please be sure to pay close attention when you are doing this as it could cause you to unknowingly miss important information about your license and possibly violate the Florida Insurance Code.

For example, we notify you via email that your CE requirement is due and you mark the message as SPAM. Our system receives notification of this then marks your email address as an invalid email address and no longer send emails to it. From that point on, you do not receive the email notifications we attempt to send to you. These emails would have let you know that you have passed your CE due date and you stand to lose any and all appointments you have. If you go four years without an appointment, your license expires. That one simple click marking our message as SPAM can lead to this situation. Unfortunately, if it reaches this final point of the license expiring, you may have to re-qualify as a first-time applicant, including passing an examination.

Additionally, if we receive a bounced response to an email notification we send you, our system will mark your email address as an invalid email address and no longer send emails to it. If your email address changes, you are required by law to notify us under [626.551](#), F.S., within 30 days or you may be subject to a \$250 fine for the first offense. This update can be made through your [MyProfile](#) account.

## Agents/Brokers: Important NPN Tips for Re-enrollments

The Centers for Medicare & Medicaid Services (CMS) would like to provide you with a few tips to ensure that your National Producer Number (NPN) is retained when your clients re-enroll in coverage through the Marketplace for plan year 2016.

Please note that the following guidance applies only to the Marketplace for Individuals and Families. NPNs are automatically carried over when agents and brokers assist small employers when logged into the Small Business Health Option Program (SHOP) Marketplace Agent/Broker Portal.

- **Tip #1:** When helping a consumer use the “Side-by-Side” (i.e., Marketplace) enrollment pathway at [HealthCare.gov](#), check to see if your NPN is included on the application. If not, have the consumer enter it before the consumer closes out the application. Ensure the consumer enters the correct NPN and then direct the consumer to click “Save & Continue” to move forward. If contacting the Marketplace Call Center about a consumer’s application, ensure your NPN is still associated with the application. If your NPN is not there, consumers may have the Marketplace Call Center add or re-enter your NPN to an application when making updates to it.

- **Tip #2:** When helping a consumer with a renewal for plan year 2016 using the Direct Enrollment pathway, make sure to move the consumer through “Report a Life Change” to make updates and confirm information. If an application submitted via Direct Enrollment last year is not touched by you this year, the auto re-enrolled application may not contain your NPN; thus, this NPN may not be included in the enrollment transaction sent to the issuer. If you continue to the partner (i.e., issuer or web-broker) website after helping the client use “Reporting a Life Change” and selecting the same or a new qualified health plan (QHP), your NPN will be generated on the enrollment transaction sent to the issuer.

If you have a legitimate reason to believe you should be credited for a Federally-Facilitated Marketplace (FFM) enrollment, but have not been credited for it, you should contact the respective QHP issuer directly to discuss the specific situation. If the QHP issuer believes you did, in fact, assist a consumer,

but the NPN was erroneously left off of the enrollment transaction, the QHP issuer may pay the commission accordingly. Please note that agents and brokers must meet registration requirements prior to assisting with an FFM application to be credited for the enrollment transaction. For more information about plan year 2016 FFM registration requirements, please visit the [Agents and Brokers Resources webpage](#).

For general questions about the agent and broker program, please email the FFM Producer and Assister Help Desk at [FFMProducer-AssisterHelpDesk@cms.hhs.gov](mailto:FFMProducer-AssisterHelpDesk@cms.hhs.gov). You may also contact the Agent and Broker Call Center by calling 1-855-CMS-1515 (855-267-1515) and selecting option "1." Call Center Representatives will be available Monday through Saturday from 8:00 AM to 10:00 PM Eastern Time (ET) and will also be available during limited hours on Sundays and holidays through November. Please note that this call center will not have access to consumer information and will not be able to handle specific questions or issues with a consumer's application. Agents and brokers should continue to call the Marketplace Call Center at 1-800-318-2596 for assistance related to enrolling consumers into coverage through the Individual Marketplace. For assistance related to coverage through the SHOP Marketplace, contact the SHOP Call Center at 1-800-706-7893.

## The Florida Statutes Are Available Online

The Florida Statutes can be viewed at [Online Sunshine - Title XXXVII Insurance](#).

This section has been created to assist you in keeping your insurance business in compliance. The items are intended as reminders only. Note: Division publications may include references to the [Florida Statutes](#) and/or the [Florida Administrative Code](#). The laws noted in our publications are/were in effect at the time of publication but may have been repealed, amended or replaced and new laws may have been enacted subsequently.

## Education Central

- Things to know about your continuing education

### What is an Elective CE Course?

Compliance cycles, ending October 31, 2014 and later, rolled out new continuing education requirements for Florida licensees. The main course being offered in the new compliance cycle is the 5-hour Law and Ethics course. Florida licensees are required to complete a 5-hour Law and Ethics course applicable to their license type. Please note title insurance agents are not included in the 5-hour course requirement and therefore, must complete courses that are approved in the line of title insurance.

What about all of those other courses listed? These courses are elective credits available in the new compliance cycle. An elective course is any approved continuing education course. Public adjusters are required to complete elective courses designed specifically for them.

The Department's new guidelines allow you to learn more about topics that interest you. Some examples of topics that you can learn more about include: risk management, disaster preparedness, ethics, policy contracts, current case law and much more!

Our online course search can help you search for continuing education courses approved by the Department. To use the online search:

1. Visit our website at [www.MyFloridaCFO.com/Division/Agents](http://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. This will pull up all the approved courses, even for different course authorities that you can take as an elective under your Course Authority.
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**.

### Are You Compliant with Your CE or Not?

To be CE compliant requires more than just taking CE courses. Below are a few 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.
- **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.

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.

## Compliance Corner

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### **Compliance Topic of the Month: Failure to Collect Bail Bond Premium ~ Unlawful Rebating?**

The Florida Statutes require bail bond agents to charge the exact surety bond premium amount filed by the surety company with the Florida Office of Insurance Regulation (OIR), nothing more and nothing less.

We are aware of bail bond agents and agencies who are not collecting the full premium, and in some cases, no premium. The bail bond agent must still pay the insurer and MGA their share of the premium. Not collecting the full premium costs the bail bond agent money to write and post the bail bond. This practice demonstrates more than questionable business skills, it is not permitted under the Florida Statutes.

If the bail bond agent is not making any attempt to collect the balance due, then he/she is discounting the premium filed with the OIR, or providing a rebate to the person who should have been paying the premium.

The surety company, or the professional bail bond agent, filed the rate they said would be the amount needed to provide the service guaranteed under the bail bond contract and allow them to make some profit and remain solvent. If the bail bond agent does not collect the full amount of the premium, then the net premium that was collected is going to be some percentage less than the premium filed with the Office. That amount is either the amount of the discount provided to the premium payer, or it is the amount of the rebate provided.

For example:

The premium rate filed with the OIR is \$500 for a \$5,000 bail bond. If the bail bond agent only collects \$100, then the balance of \$400 is the amount of the discount or rebate provided.

The reason some bail bond agents charge less than their competition for a bail bond is to try to get more business, which may appear to be good on the surface, but in reality it poses its own problems.

Bail bond agents who are not charging the full premium may be charged with violating [s.648.33\(2\)](#), F.S. This section requires the executing bail bond agent to charge the full premium for the bail bond being written.

Other violations that can be charged in this situation include [s.648.44\(1\)\(g\)](#), F.S., unlawful rebating, which states the bail bond agent may not "Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf."

Section [648.45\(2\)\(i\)](#), F.S. allows the Department to seek suspension or revocation of a bail bond agent for rebating or offering to rebate, or unlawfully dividing or offering to divide, any commission, in the case of a limited surety agent, or premiums, in the case of a professional bail bond agent. If a bail bond agent does not collect the full premium, he/she is forgoing commissions earned in favor of the indemnitor.

A bail bond agent who is not collecting the full bail bond premium, can also be charged with violating [s.626.9541\(1\)\(h\)](#), F.S., which is part of the unfair trade practice statutes. This says the bail bond agent may not provide any unlawful rebate of premiums, may not pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf special favor or advantage or any valuable consideration to the person paying the premium as an inducement for that person to use that bail bond agent and not another.

Section [626.9541\(1\)\(o\)2.](#), F.S., also part of the unfair trade practice statutes, applies as well. This law means the bail bond agent may not knowingly collect any sum that is less than the premium for that surety contract, or bail bond.

We strongly recommend that agencies keep extensive records of their efforts to collect the balance of the premium.

## What's the Difference? Referral Fees, Marketing/Advertising Gifts and Unlawful Inducements

We are frequently asked about referral fees, marketing or advertising gifts, and what constitutes an unlawful inducement. These three topics are often confused by licensees. Let's review the definition and practical use of each, lawful and unlawful:

**Referral fees** - referral fees are either cash or an item given to the source of a referral provided for the referral of a prospective insurance customer. The fees are lawful **provided** they are given for every referral, not just those that result in insurance sales. Acceptable fees can be paid in cash, with a gift card, merchandise, lottery tickets, etc. There is NO limit on the amount of a cash referral fee or the value of merchandise. [[s.626.112\(8\)](#), F.S.]

**Marketing/Advertising Gifts** - these are items of merchandise given to prospective or current policy holders or to the public that market or advertise a licensee or agency. Acceptable items include coffee

mugs, tennis balls, golf towels, mouse pads, etc., and generally include the name of the agent or agency. Cash, gift cards, lottery tickets, etc., are not acceptable gifts. The value of the merchandise cannot exceed \$25. [[s.626.9541\(1\)\(m\)](#), F.S.]

**Unlawful Inducements** - the definition of an unlawful inducement in its simplest terms is to give a prospective customer, existing customer or any other entity or person a "thing of value" in exchange for something of value to the licensee. An example is giving any person or entity cash, its equivalent, merchandise, lottery tickets, tickets to a sporting event, etc. in exchange for the ability to produce an insurance quote or sell insurance. An example is to give every person that asks for an auto insurance quote a \$5 gift card. If another agent or agency sells the same product for the same price, the consumer may choose to work with the licensee that offers the gift card. The law was created in part to deter unfair competition among licensees. [[s.626.9541\(1\)\(h\)](#), F.S.]

## **Title Agencies: Update Your Info for the 2016 Administrative Surcharge**

Subsection [624.501\(27\)\(e\)2](#), F.S., requires any title insurance agency licensed in Florida on January 1 of each year to remit an administrative surcharge of \$200 to the Florida Department of Financial Services. Therefore, we are [reminding](#) all title agencies that the 2016 administrative surcharge due date will soon be approaching.

NOTE: This surcharge is not related to the one imposed on each new policy written due to the receiverships of National Title Insurance Company and K.E.L. Title Insurance Group, Inc.

Any title insurance agency licensed in Florida on January 1, 2016, will be emailed a reminder a few days afterward to the agency's **email address** on file with the Department. To ensure you receive the invoice and avoid failing to pay by the January 30 due date, please log in to the [MyProfile](#) account for your title agency and make sure the correct email address is on file. While doing so, we also recommend you do the same for your individual [MyProfile](#) account.

Occasionally we discover agencies that were not aware of the reminder because of the retirement or termination of the employee assigned to monitor the email address provided to the Department. Failure to open the email sent by the Department containing the administrative surcharge reminder does not release an agency from the January 30 deadline. Please verify your information soon so this does not happen to you. If you need our assistance, you may contact us at [Title@MyFloridaCFO.com](mailto:Title@MyFloridaCFO.com) to assist you through the steps to update your information. Be proactive; not reactive.

Failure to pay the surcharge on or before January 30, 2016 will result in administrative action which could include a fine, in addition to the original surcharge. Payment must be made securely online via the title agency's [MyProfile account](#). Paper checks are not accepted.

## **Compliance Information**

Department licensees and consumers can access compliance information at the Division's web page [Compliance Information](#). Additional information is available by type of license at our [Frequently Asked Questions](#) web page.



## 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: A Fort Lauderdale based immigration bond agency engaged in deceptive advertising, paid commissions to persons not properly licensed to receive them, and failed to report administrative actions taken by other states.

Disposition: Agency fined \$17,500; the two agency owners were fined \$8,750 each.



Case: Investigators were notified that a Bail Bond agent was terminated by a surety company for failing to remit premiums collected on issued bail bonds. Because he was terminated by the surety company, he sought appointments with other companies; however, in his appointment documents for those companies, he failed to disclose he owed premium to the surety company that terminated him, and in fact, signed the "Oath Statement" making multiple material misrepresentations in an effort to obtain appointments. The bail bond agent ultimately remitted the outstanding premiums to the surety company.

Disposition: Fine \$3,000, one year probation.

Case: The investigation resulted from a complaint from another agent alleging a general lines agent charged the agent's former client an agency fee in addition to the premium. Investigators determined the agent, who was also the agent in charge and owner of the agency, charged consumers a "consulting fee" in lieu of accepting commission from the broker he submitted the business to. Commissions are part of the premium rate charged, and the commission was still being paid out to the broker. The agent said it was "an industry norm" to charge consumers a fee in lieu of collecting commissions. An audit determined the agency charged 20 clients unlawful "consulting fees" over the prior three years, amounting to \$48,977. The agency issued refund checks to the affected consumers.

Disposition: Fined \$4,000.

Case: An investigation was initiated on a life, health and variable annuity agent after the Department was alerted by the son of an elderly couple in their 80's. The agent had motivated the couple to cancel their existing life insurance policies which they had held for many years, and convinced them to buy a "Last to Die" policy. The agent failed to submit 1035 exchange forms for the replacement, which created a taxable event for the consumers. After the consumers contacted the new insurance company they realized the agent had misrepresented the benefits of the change, and discovered the agent had also altered application documents to secure the issue of the new life insurance policies. Investigators

brought the agent's acts to the attention of the company, which refunded all premiums paid for the new policy to the consumers, however, the consumers still sustained a \$4,490 tax penalty.

Disposition: Suspended one year.

Case: The case was opened after investigators became aware an administrative action had been taken against a life, health, and variable annuity agent by the Financial Industry Regulatory Authority (FINRA). Over a period of three years, FINRA found the agent made more than 2000 discretionary trades in the account of a single customer without the customer's prior written consent. The agent also made an unsuitable recommendation that the customer invest \$1.1 million in a gold and precious minerals mutual fund. As a result, FINRA suspended the agent for four months and he was ordered to pay a \$25,000 fine, which included the disgorgement of \$11,000 in commissions received. The agent failed to notify the Department of the enforcement action within 30 days as required.

Disposition: Suspended three months.

Case: A case was opened on a bail bond agent after investigators were notified that a Final Judgment had been issued against him by a county Clerk of Courts. The Judgment was not satisfied until 30 days after it was due. Investigators audited the bail bond agent's records and found that he had continued to execute bail bonds while the judgment remained outstanding for more than 35 days.

Disposition: Fined \$1,500.

Case: Investigators received several complaints from the Department's Division of Consumer Services indicating consumers had paid an insurance agency for homeowners insurance coverage but never received a policy. Investigators determined the insurance agency had closed its doors. One consumer made a down payment to the agency for homeowners insurance and was given an Acord Evidence of Property Insurance form indicating coverage was in place, but investigators determined the insurance was never put in force. Another consumer's home suffered damages by wind-driven rain and was not covered because the agency never placed homeowner's coverage. That consumer sued the insurance agency and obtained a Final Judgment against it in the amount of \$115,293.17. To date the consumer has not recovered any funds from the out of business agency.

An attorney acting as Trustee on behalf of the insurance agency which filed bankruptcy, reported that during the bankruptcy proceeding it came to light that the principals, both general lines agents, had accepted premium payments from 51 customers but failed to forward the premiums to the appropriate insurance companies. The Trustee filed an Adversary Complaint to Avoid and Recover Fraudulent and/or Preferential Transfers and for Other Relief against the agents. The complaint alleges that just before the insurance agency filed bankruptcy, the principals misappropriated fiduciary funds for their own purposes, purchasing family vacations to two destinations out of the country among other personal purchases. The Trustee alleged the duo misappropriated the agency's remaining assets for personal gain.

Disposition: The agent in charge was permanently barred and removed from the insurance business. The Division of Insurance Fraud arrested and charged her with Insurance Funds/Diversion, Uttering Forged Instruments and Grand theft 3rd Degree.

Case: During an investigation following up on the revocation of a bail bond agent, investigators discovered another bail bond agent was aiding and abetting the revoked agent by opening an agency in his own name and posting bonds at the jail for the revoked agent. The investigation revealed the revoked agent leased the office space from the other bail bond agent, was the only signor on the checking account, and had a Face Book account advertising the bail bond agency under his name. Investigation revealed that the agent aiding the revoked agent had no ownership or any type of control

over the agency. Although the aiding bail bond agent had named the agency after himself, the revoked bail bond agent was the de facto principal operating the agency and transacting bail bond business. The subject of the investigation told investigators the revoked agent had set up cameras within the agency so he would know if Department investigators came into the office, with plans to exit a back door. An accounting of the agency's bank records determined that all checks and cash from the agency were deposited into a bank account owned by the revoked agent and all bills related to agency operations were paid from the same account.

Disposition: Suspended 18 months.

Case: Investigators learned that Federal felony charges had been filed against a life, health and variable annuity agent. The agent was charged with five counts of Fraud by Wire, Radio, or Television. The agent pled guilty to one count of Fraud by Wire, Radio, or Television and was sentenced to 63 months in prison.

Disposition: Licenses revoked.

Case: Investigators learned that an auto warranty agent-firm was sending mailers to Florida consumers advising them that their vehicle warranties were expiring. However, in many instances, the vehicle warranties were not expiring and some consumers didn't even have a vehicle warranty. The auto warranty firm had previously been fined for placing misleading advertising before the public.

Disposition: Fined \$4,000.

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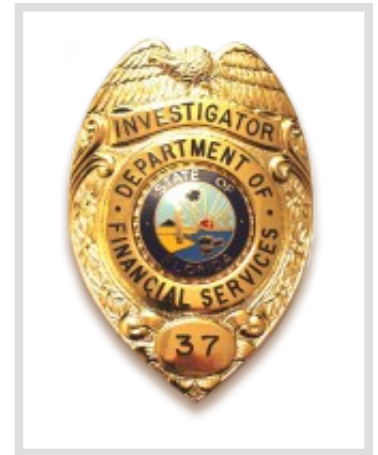
DIVISION OF AGENT AND AGENCY SERVICES

Volume 4, No. 11 - November 2015

## Enforcement Actions

- October 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:** Actions taken before July 1, 2015 are located at [FLDFS Final Orders](#). Actions taken after July 1, 2015, can be searched for at the Florida Division of Administrative Hearings' (DOAH) [website](#). 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 / COSTS	RESTITUTION	DOCUMENT
Barnaba	Karen	A013873	Title	Probation and Fine	\$3,500		<a href="#">Consent Order</a>
Bighames	Steffen	W193968	Life, Variable Annuity, Legal Expense	License Revoked			<a href="#">Order of Revocation</a>
Blanding	Beverly	A303345	Bail Bond	License Revoked			<a href="#">Consent Order</a>
Canizio	Matthew	P231739	Life, Health, Variable Annuity	License Revoked			<a href="#">Search</a>
Crandall	Georgette	P007376	General Lines	Probation and Fine	\$5,000		<a href="#">Search</a>
Danzy	Derrick	A061458	Bail Bond	Probation and	\$3,500		<a href="#">Search</a>

				Fine			
Douglas	Courtney	P067123	General Lines	License Revoked			<a href="#">Search</a>
Edbrooke	Christopher	A075252	Life, Health, Variable Annuity	License Suspended 6 Months and Fined	\$3,000		<a href="#">Search</a>
Ervin	James	E002852	Bail Bond	License Suspended 2 Months			<a href="#">Order of Suspension</a>
Fernandez	Graciela	A082862	General Lines	Permanently Barred			<a href="#">Consent Order</a>
Fletcher Jr	William	W078462	Bail Bond	License Suspended			<a href="#">Search</a>
Gluckman	David	D071576	Life, Health, Variable Annuity	Probation and Fine	\$5,000		<a href="#">Search</a>
Gulf Coast Ins & Financial Services Inc		L060708	Agency	License Suspended 1 Year			<a href="#">Consent Order</a>
Haston	Nadelie	W089250	General Lines, All Line Adjuster	License Suspended			<a href="#">Search</a>
Husain	Karen	W066174	Life, Health, Variable Annuity	License Revoked			<a href="#">Order of Revocation</a>
Jimenez	Myriam	P081138	Title	Permanently Barred			<a href="#">Consent Order</a>
Johannesson	Kelly	P134020	Life, Health, Variable Annuity, Customer Representative	License Revoked			<a href="#">Notice of Revocation</a>
Kelley	Shane	P236609	Life, Health, Variable Annuity	License Suspended			<a href="#">Search</a>
Kirsner	Craig	A142258	Life, Health, Variable Annuity	Probation and Fine, 6 Hours C.E.	\$5,000		<a href="#">Search</a>
Kirsner	Stuart	A142259	Life, Health, Variable Annuity	Probation and Fine, 6 Hours C.E.	\$5,000		<a href="#">Consent Order</a>
Leo	Patrick	A153372	Surplus Lines, General Lines	Probation and Administrative Cost	\$5,000 Costs		<a href="#">Search</a>
				Probation and			

Leo Risk Services Inc		L002555	Agency	Administrative Cost	\$10,000 Costs		<a href="#">Search</a>
Maddox	Natasha	E173349	Bail Bond	License Suspended			<a href="#">Search</a>
McMahon	Shirley	E082504	Life, Health, Variable Annuity, General Lines	License Suspended 1 Year			<a href="#">Consent Order</a>
Moon	Martha	E141009	Title	License Suspended 3 Months, Fine and Restitution	\$2,500	\$5,172.80	<a href="#">Search</a>
Nougust	Kamran	W077872	Life, Variable Annuity	Permanently Barred			<a href="#">Consent Order</a>
Nuttall	Nathan	W051411	Public Adjuster	License Suspended 3 Months			<a href="#">Order of Suspension</a>
Pagan-Malave	Ilsa	D033243	All Lines Adjuster	License Revoked			<a href="#">Order of Revocation</a>
Reynoso	Jose	W011929	Life, Variable Annuity	License Suspended			<a href="#">Search</a>
Rodriguez	Giovanna	P022826	Customer Representative	License Suspended			<a href="#">Search</a>
Rodriguez	Sandra	P132030	General Lines	License Suspended 6 Months, 10 Hours C.E.			<a href="#">Consent Order</a>
Secured Insurance Services Inc		L057856	Agency	Probation and Fine	\$4,000		<a href="#">Search</a>
Simmons	Thomas	A243350	Bail Bond	License Revoked			<a href="#">Search</a>
Volts	Michael	D075472	Life, Health, Variable Annuity	Fined	\$1,500		<a href="#">Search</a>
Ward	Kenneth	W052113	All Lines Adjuster	License Revoked			<a href="#">Order of Revocation</a>
Werner	Byron	A281572	Bail Bond	Fine and 5 Hours C.E.	\$ 750		<a href="#">Search</a>

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DIVISION OF AGENT AND AGENCY SERVICES

## Contact Us

- We're always here for you

### Bureau of Licensing

[AgentLicensing@MyFloridaCFO.com](mailto:AgentLicensing@MyFloridaCFO.com) - For general inquiries about licensing.

[Education@MyFloridaCFO.com](mailto: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

Compliance issues, licensees and insurers only:

[Title@MyFloridaCFO.com](mailto:Title@MyFloridaCFO.com) - For title insurance matters

[BailBond@MyFloridaCFO.com](mailto:BailBond@MyFloridaCFO.com) - For bail bond matters

[Adjusters@MyFloridaCFO.com](mailto:Adjusters@MyFloridaCFO.com) - For adjuster matters

For all other matters not related to licensing or education:

[askDFS@MyFloridaCFO.com](mailto:askDFS@MyFloridaCFO.com) -

*200 East Gaines Street  
Larson Building, Room 412  
Tallahassee, FL 32399-0320*

### Title Insurance Data Call



[TitleAgencyReporting@flor.com](mailto:TitleAgencyReporting@flor.com) - For questions about the filing process

[TitleDataCall@flor.com](mailto:TitleDataCall@flor.com) - For all other questions about the data call

## ***Insurance Insights* Editor/Publisher**

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