

11-18-04



FILED



JAN 18 2005

TOM GALLAGHER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

Docketed by:

THE MATTER OF:

ADRIAN M. JAGDOESINGH /

AT

CASE NO: 64402-04-AG

REM-CWS

DIVISION OF
ADMINISTRATIVE
HEARINGS

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FINAL ORDER

THIS CAUSE came on for consideration and final agency action. On or about April 26, 2004, the Department of Financial Services filed an Administrative Complaint alleging that Respondent, Adrian M. Jagdeosingh, had violated various statutes regulating his conduct as a general lines agent.

Respondent replied in writing to the allegations of the Administrative Complaint and timely requested a formal hearing pursuant to Section 120.57(1), Florida Statutes. Pursuant to notice the matter was heard before Administrative Law Judge Robert E. Meale of the Division of Administrative Hearings on August 31, 2004, in Fort Lauderdale, Florida.

After consideration of the evidence, argument and testimony presented at the hearing, the Administrative Law Judge issued his Recommended Order on November 18, 2004. A true and correct copy of the Recommended Order is attached hereto as Exhibit "A". The Administrative Law Judge recommended that a Final Order be entered finding Respondent guilty and recommending a one (1) year suspension. Respondent filed post-hearing exceptions. In addition to Respondent's exceptions, Respondent made a motion for rehearing. The Department does not have the authority to grant such a request. As a result, the Department will only address the Respondent's exceptions.

RULINGS ON RESPONDENT'S EXCEPTIONS

Respondent excepts to Ms. Dione Jacques deposition testimony. Particularly, Respondent contends that Ms. Jacques' testimony is confusing and contradictory. Respondent makes additional statements related to the sufficiency of Ms. Jacques testimony, and evidence related to Ms. Jacques. Respondent also challenges, generally, whether Petitioner proved that Respondent failed to designate a primary agent. Lastly, Respondent argues that the Petitioner did not prove its case by clear and convincing evidence. Respondent's four main points do not appear to be specific exceptions to the Administrative Law Judge's Findings of Fact or Conclusions of Law. Most of Respondent's observations are comments regarding the hearing. Moreover, Respondent's remarks appear to reargue evidence and provide additional testimony and argument. The weight given to the evidence is the province of the Administrative Law judge and cannot be disturbed by the agency unless the findings are not supported by competent substantial evidence. *See, Brogan v. Carter*, 61 So.2d 822 (Fla. 1st DCA 1996). In this case, there is competent substantial evidence to support the Finding of Facts. Further, neither the Administrative Law Judge nor Department is permitted to consider new testimony and argument during the period for filing exceptions. Accordingly, Respondent's exceptions are rejected.

Upon careful consideration of the record, the submissions of the parties, and being otherwise fully advised in the premises, it is ORDERED:

1. The Findings of Fact of the Hearing Officer are adopted in full as the Department's Findings of Fact.
2. The Conclusions of Law of the Hearing Officer are adopted in full as the Department's Conclusions of Law.

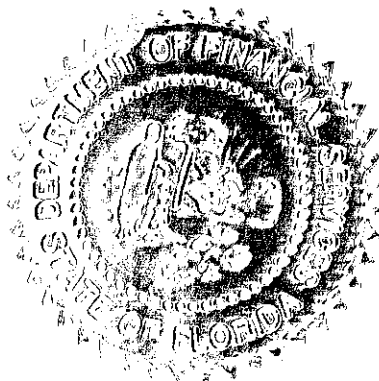
3. The Hearing Officer's recommendation that the Department enter a Final Order suspending Petitioner's licensure as a general insurance agent for (1) one year is approved and accepted as being the appropriate disposition of this case.

ACCORDINGLY, it is ORDERED that Respondent's, ADRIAN M. JAGDOESINGH, licenses(s) and eligibility for licensure be SUSPENDED for one (1) year effective immediately upon issuance of this Final Order. Pursuant to Section 626.651, Florida Statutes, the suspension of Respondent's license(s) and eligibility for licensure is applicable to all licenses and eligibility held by the Respondent under the Florida Insurance Code. Pursuant to Section 626.641(4), Florida Statutes, the Respondent shall not engage in or attempt or profess to engage in any transaction or business for which a license or appointment is required under the Insurance Code or directly or indirectly own, control, or be employed in any manner by any insurance agent or agency or adjuster or adjusting firm during the period of suspension. Pursuant to Section 626.641(1), Florida Statutes, the Respondent's licensure shall not be reinstated except upon written request for such reinstatement, and the Respondent shall not engage in the transaction of insurance until his licensure is reinstated. The Department shall not grant reinstatement if it finds that the circumstance or circumstances for which Respondent's licenses were suspended still exist or are likely to recur.

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of the Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Fla.R.App.P. Review proceedings must be instituted by filing a petition or Notice of Appeal with the General Counsel, acting as the agency clerk, at 200 East Gaines Street, Tallahassee, FL 32399-0333, and a copy of the same and the filing fee with the appropriate District Court of Appeal within thirty (30) days of the rendition of this Order.

DONE and ORDERED this 13th day of January, 2004⁵.



Karen Chandler
Karen Chandler
Deputy Chief Financial Officer

COPIES FURNISHED TO:

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