

11-18-04

 **FLORIDA**
 DEPARTMENT OF
FINANCIAL SERVICES
FILED



TOM GALLAGHER
 CHIEF FINANCIAL OFFICER
 STATE OF FLORIDA

DEC 20 2004

IN THE MATTER OF:

Docketed by: EU

MARK DURBAHN KENNEDY

CASE NO: 75941-04-AG

04-2518PL

CLERK OF THE COURT
 DIVISION OF ADMINISTRATIVE HEARINGS
 1100 N. GULF BLVD.
 SUITE 1000
 TAMPA, FL 33602
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 DEC 20 2004 11:55

FINAL ORDER

SML-CWS

THIS CAUSE came on for consideration and final agency action. On July 7, 2004, an Administrative Complaint was filed charging Respondent with various violations of the Insurance Code. The Respondent timely filed a request for a proceeding pursuant to Section 120.57(1), Florida Statutes. Pursuant to notice, the matter was heard before Stuart M. Lerner, Administrative Law Judge, Division of Administrative Hearings, on October 15, 2004.

After consideration of the evidence, argument and testimony presented at hearing, the Administrative Law Judge issued his Recommended Order. (Attached as Exhibit A).¹ The Administrative Law Judge recommended that Respondent's licenses be revoked pursuant to Section 626.611, Florida Statutes. Neither party filed exceptions to the Recommended Order. Upon careful consideration of the record, the submissions of the parties and being otherwise fully advised in the premises, it is

¹ Judge Lerner subsequently acknowledged that he inadvertently identified the Respondent as William Durbahn Kennedy, instead of Mark Durbahn Kennedy in his Recommended Order.

ORDERED:

1. The Findings of Fact of the Administrative Law Judge are adopted in full as the Department's Findings of Fact.

2. The Conclusions of Law of the Administrative Law Judge are adopted in full as the Department's Conclusions of Law.

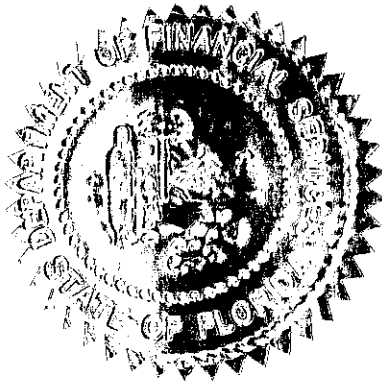
3. The Administrative Law Judge's recommendation that the insurance licenses of MARK DURBAHN KENNEDY be revoked pursuant to Section 626.611, Florida Statutes, is approved and accepted as being the appropriate disposition of this case.


ACCORDINGLY, Respondent's licenses and eligibility for licensure are hereby REVOKED. Pursuant to Section 626.651, Florida Statutes, the revocation of Respondent's licenses and eligibility for licensure is applicable to all licenses and eligibility held by 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 an insurance agent or agency, adjuster or adjusting firm. Pursuant to Section 626.641(2), Florida Statutes, Respondent shall not have the right to apply for another license or appointment under the Florida Insurance Code within two years from the date of rendition of this Final Order, or, if judicial review of this Final Order is sought, within two years of date of rendition of the opinion affirming this Final Order. The Department shall not grant reinstatement if it finds that the circumstance or circumstances for which Respondent's licenses were revoked 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 this Order pursuant to section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be instituted by filing a Notice of Appeal with the General Counsel, acting as the agency clerk, at 612 Larson Building, Tallahassee, Florida 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 20th day of December 2004.




KAREN CHANDLER
Deputy Chief Financial Officer

COPIES FURNISHED TO:

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Administrative Law Judge
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