

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF)
FINANCIAL SERVICES,)
)
Petitioner,)
) Case No. 06-3671PL
vs.)
)
JIBRI KHALEID KNIGHT,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Notice was provided and on February 28, 2007, a formal hearing was held in this case pursuant to Sections 120.569 and 120.57(1), Florida Statutes (2006). The hearing location was the offices of the Division of Administrative Hearings, the DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida. The hearing commenced at 9:00 a.m. The hearing was held before Charles C. Adams, Administrative Law Judge.

APPEARANCES

For Petitioner: William Gautier Kitchen, Esquire
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Division of Legal Services
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For Respondent: L. Michael Billmeier, Jr., Esquire
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STATEMENT OF THE ISSUE

Should discipline be imposed by Petitioner against Respondent's insurance agent licenses, life including variable annuity (2-14), and general lines (2-20), pursuant to Chapters 624 and 626, Florida Statutes (2004)?

PRELIMINARY STATEMENT

On August 18, 2006, by an Administrative Compliant in Case No. 87216-06-AG, Petitioner accused Respondent of violations of Chapters 624 and 626, Florida Statutes (2004), subjecting Respondent to possible discipline in accordance with those chapters and Florida Administrative Code Chapter 69B-231, in relation to the sale of term life insurance by Denise D. Turnbull, a customer representative to William L. Green, Jr., a customer, and Respondent's sale of an accident medical protection plan to Brandi Dean, a customer.

On September 7, 2006, Respondent's attorney wrote Petitioner requesting a hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, to allow the allegations in the Administrative Complaint to be contested.

On September 25, 2006, Petitioner forwarded the case to the Division of Administrative Hearings (DOAH) to assign an administrative law judge to conduct a formal hearing. Robert Cohen, Director and Chief Judge of DOAH accepted the case. It was assigned as DOAH Case No. 06-3671PL, with the undersigned serving as administrative law judge.

Following two continuances the case was heard on the aforementioned date.

Petitioner called Brandi Lee Dean, Denise D. Turnbull, and William L. Green, Jr. as its witnesses. Petitioner's Exhibits numbered 1, 2, 4 through 12, and 15 through 19 were admitted. At the conclusion of Petitioner's case, Respondent moved to dismiss Count II to the Administrative Complaint. The motion was denied for reasons explained in the hearing transcript. No witnesses were presented by Respondent. Respondent's Exhibit numbered 1 was admitted.

Consistent with an Order of Prehearing Instructions the parties entered into factual stipulations. The stipulated facts are set out in the findings of fact to this Recommended Order.

On March 14, 2007, a transcript was filed. On April 3, 2007, Respondent filed a proposed recommended order through an extended filing schedule. It was considered in preparing the Recommended Order.

FINDINGS OF FACT

Stipulated Facts

1. Respondent is licensed by Petitioner as a life including variable annuity (2-14) and a general lines (2-20) insurance agent and has been issued license D029506.

2. During the time referenced in the Administrative Complaint, Respondent was licensed as a customer representative (4-40) and a life including variable annuity (2-14) agent.

3. The Department has jurisdiction over Respondent's insurance licenses and appointments.

4. At all times relevant to the dates and occurrences referenced in the Administrative Complaint, Respondent was employed or affiliated with Direct General Insurance Agency, Inc., a Tennessee corporation, doing business in Florida as Florida No-Fault Insurance Agency (Cash Register).

Additional Facts:

5. At times relevant to the case Respondent held his life including variable annuity license (2-14) under an appointment with Direct Life Insurance Company.

6. At times relevant to the case Respondent had a customer representative license (4-40) under appointment with Direct General Insurance Agency, Inc.

7. At present Respondent continues to hold the life including variable annuity license (2-14) under an appointment with Direct General Life Insurance Company. At present he has a general lines license property and casualty license (2-20) under appointments with Direct General Insurance Company and American Bankers Insurance Company of Florida.

8. On February 8, 2005, Brandi Dean called Cash Register to receive a quote for the purchase of basic automobile insurance coverage. She was provided a quote at that time.

9. On February 8, 2005, Brandi Dean, went to the Cash Register to purchase basic automobile insurance coverage. She had done business with the insurance agency before. Her policy with Direct General Insurance Company was Policy No. FLCR162714439, as reflected in Petitioner's Exhibit numbered 15, with a scan cover sheet entitled "Renewal Auto." On February 8, 2005, Ms. Dean purchased automobile insurance coverage that would be effective from February 10, 2005 through February 10, 2006. She was charged \$316 for property damage liability (PD) and \$216 for basic injury protection (PIP) for a total of \$532, with a \$25 policy fee. The application information within the exhibit reflects the customer's name, signature, and initials in various places.

10. On February 8, 2005, Ms. Dean was provided another form referred to as an Explanation of Policies, Coverages and Cost Breakdown (including non-insurance products). Petitioner's Exhibit numbered 16. She signed that document. It reflected the auto policy coverage information. It also set forth under a category referred to as optional policies, the purchase of Lloyd's Accident Medical Protection Plan for \$110. Petitioner's Exhibit numbered 17 is additional information concerning the Accident Medical Protection Plan application by the customer signed by her. It details a \$110 annual premium for individual coverage of \$1,000 medical expense, and 125/day-365 day hospital coverage. Within that same exhibit there is a form signed by the customer titled 100% certain underwriters @ Lloyd's/London (DB/33) Accident Medical Protection Plan. This reflects \$110 cost, \$125 daily coverage and the total annual benefit of \$45,625.

11. Petitioner's Exhibit numbered 18 is a scan cover sheet entitled Renewal Finance with Premium Finance Agreement Information in association with Direct General Financial Services, Inc., in which the customer Ms. Dean paid \$69.63 down, financed \$599.82, with a total price of \$748.61 when considering the annual percentage rate for financing. This document in totality was initialed and signed by Ms. Dean.

Ms. Dean was provided a receipt for her cash down-payment on the purchase. Petitioner's Exhibit numbered 14. Petitioner's Exhibit numbered 19 is an Insurance Premium Financing Disclosure Form signed by the customer, reflecting the cost of the automobile insurance and the hospital indemnity plan, the amount of total cost and includes the policy fee for the automobile insurance, document stamp tax, the down payment, and the total amount financed \$599.82.

12. Ms. Dean was left with the impression that she had only purchased automobile insurance. She believed that the monthly payments for the financing were only in relation to automobile insurance.

13. Ms. Dean does not recall having the accidental medical protection plan explained to her as to its terms. She does not recall anyone explaining that it was an optional plan unassociated with automobile insurance. She told the agent that she dealt with that she was only interested in purchasing the state-required automobile insurance coverage. Had she realized that she was purchasing optional accident medical protection, not part of the automobile insurance purchase, she would have declined the optional policy.

14. Ms. Dean does recall that the agent she dealt with made some brief explanation about the documents involved in the transaction but not every page was explained. Ms. Dean recalls

explanations about the automobile policy but nothing about optional coverage. Ms. Dean glanced over the documents but did not read every word included in the documents.

15. Ms. Dean does not recall whom she dealt with on February 8, 2005. Otherwise, the record does not reflect the person who sold the automobile insurance and accidental medical protection plan to her at that time.

16. At times relevant, Denise Daley Turnbull worked at Cash Register. She was a customer representative license (4-40), appointed by Direct General Insurance Agency, Inc.

17. On March 24, 2005, William L. Green, Jr., came to Cash Register to purchase automobile insurance. He dealt with Ms. Turnbull. He made a \$170.02 down payment for his purchases, as reflected in Petitioner's Exhibit numbered 4, which is a receipt provided to Mr. Green. A scan cover sheet related to an auto policy purchased, together with the application information for the automobile insurance purchased through Direct General Insurance Company is found within Petitioner's Exhibit numbered 5. Mr. Green purchased automobile insurance for property damage liability (PD) in the amount of \$590 and basic personal injury protection (PIP) for \$370, with a \$25 policy fee, totaling \$985. He signed and initialed parts of the forms in association with the automobile insurance. Ms. Turnbull also signed forms in association with the automobile insurance.

18. Petitioner's Exhibit numbered 6 is an explanation of policies, coverages and cost breakdown (including non-insurance products) reflecting the overall purchases by Mr. Green. He signed that form. It relates the automobile insurance purchase. It also relates the purchase of an American Bankers Travel Protection Plan for \$60, a Lloyd's Accidental Medical Protection Plan for \$110 and life insurance of \$98. With fees and other costs the total purchase was \$1270.99.

19. Of relevance here, Petitioner's Exhibit numbered 9 is a scan cover sheet in relation to the life policy signed by Ms. Turnbull. It also includes application information to Direct Life Insurance Company with certain questions reflected that were initialed by the purchaser. Mr. Green signed the application. Respondent also signed the application, as well as printing his name and insurance license number on the form.

20. Petitioner's Exhibit numbered 10 is a scan cover sheet for a New Finance with Direct General Financial Services, Inc., which reflects a \$162.03 down-payment, \$1105.17 in amount financed, with a \$129 finance charge. The total sales price for all purchases was \$1396.20, to include the life insurance with Direct Life Insurance Company. Mr. Green signed the premium finance agreement. Petitioner's Exhibit numbered 11 is a copy of the Insurance Premium Finance Disclosure Form signed by Mr. Green.

21. Ms. Turnbull has no recollection of the Respondent's participation in the sale of the life insurance policy to Mr. Green. She does recall that Respondent was in the insurance agency office when the life insurance was purchased. She recognizes Respondent's signature in association with the life insurance application and purchase.

22. Mr. Green had no intention of purchasing life insurance when he went to Cash Register on March 24, 2005. He recalls dealing with Ms. Turnbull. No one else sat with Mr. Green and explained policy information to him. Specifically, Respondent did not sit with Mr. Green and offer explanations about the policy. Mr. Green did not see Respondent sit with Ms. Turnbull and Respondent remained silent while she sold the life policy. Had Mr. Green realized that he was purchasing life insurance he would have declined the opportunity.

CONCLUSIONS OF LAW

23. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter of this proceeding in accordance with Sections 120.569 and 120.57(1), Florida Statutes (2006).

24. This is a disciplinary case. Therefore, Petitioner has the burden of proving the allegations in the Administrative Complaint by clear and convincing evidence. See § 120.57(1)(j),

Fla. Stat. (2006); see also Department of Banking and Finance Division of Securities and Investor Protection v. Osborne Stern and Co., 670 So. 2d 932 (Fla. 1996); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987); and Pou v. Department of Insurance and Treasurer, 707 So. 2d 941 (Fla. 3rd DCA 1998).

25. In pertinent part the Administrative Complaint alleges:

* * *

3. At all times relevant to the dates and occurrences referenced herein you, JIBRI KHALEID KNIGHT, were employed or affiliated with Direct General Insurance Agency, Inc., a Tennessee corporation, doing business in Florida as Cash Register.

Count I

* * *

5. On or about March 24, 2005, Customer Representative Denise D. Turnbull (Florida Insurance Identification Number E159113) sold a term life insurance policy to William L. Green. Ms. Turnbull was not licensed to sell this insurance product and her having done so was a violation of Sections 624.11(1), 626.112(2), 626.611(4), 626.611(7), 626.611(13), and 626.621(2), Florida Statutes, and Rules 69B-213.050(3), and 213.110(3), Florida Administrative Code.

6. You, JIBRI KHALEID KNIGHT, signed the forms associated with this transaction and in so doing aided and abetted Ms. Turnbull in a violation of the insurance code.

IT IS THEREFORE CHARGED that you, JIBRI KHALEID KNIGHT, have violated or are accountable under one or more of the following provisions of the Florida Insurance Code, which constitutes grounds for the suspension or revocation of your licenses as an insurance agent in this state:

(a) No person shall transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, without complying with the applicable provisions of this code, [Section 624.11(1), Florida Statutes].

(b) If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this code. [Section 626.611(4), Florida Statutes].

(c) Demonstrated lack of fitness or trustworthiness to engage in the business of insurance. [Section 626.611(7), Florida Statutes].

(d) Willful failure to comply with, or willful violation of, any proper order or rule of the department, commission, or office or willful violation of any provision of this code. [Section 626.611(13), Florida Statutes].

(e) Violation of any provision of this code or of any other law applicable to the business of insurance in the course of dealing under the license appointment. [Section 626.621(2), Florida Statutes].

(f) Knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or to violate a provision of the insurance code or any order or rule of the department, commission, or office. [Section 626.621(12), Florida Statutes].

COUNT II

* * *

8. On or about February 8, 2005, you, JIBRI KHALEID KNIGHT, sold to Brandi Dean an Accident Medical Protection Plan without her informed consent.

IT IS THEREFORE CHARGED that you, JIBRI KHALEID KNIGHT, have violated or are accountable under one or more of the following provisions of the Florida Insurance Code, which constitutes grounds for the suspension or revocation of your licenses as an insurance agent in this state:

(a) No person shall transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, without complying with the applicable provisions of this code. [Section 624.11(1), Florida Statutes].

(b) If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this code. [Section 624.611(4), Florida Statutes].

(c) Demonstrated lack of fitness or trustworthiness to engage in the business of insurance. [Section 624.611(7), Florida Statutes].

(d) Fraudulent or dishonest practices in the conduct of business under the license or appointment. [Section 624.611(9), Florida Statutes].

(e) Willful failure to comply with, or willful violation of, any proper order or rule of the department, commission, or office or willful violation of any provision of this code. [Section 626.611(13), Florida Statutes].

(f) Violation of any provision of this code or of any other law applicable to the business of insurance in the course of dealing under the license or appointment. [Section 626.621(2), Florida Statutes].

(g) Violation of any lawful order or rule of the department, commission, or office. [Section 626.621(3), Florida Statutes].

(h) In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX of this chapter, or having otherwise shown himself or herself to be a source of injury or loss to the public or detrimental to the public interest. [Section 626.621(6), Florida Statutes].

(i) No person shall engage in this state in any trade practice which is defined in this part as, or determined pursuant to s. 626.951, or s. 626.9561 to be, an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance. [Section 626.9521(1), Florida Statutes].

(j) Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of insurance when such coverage or product is not required. [Section 626.9541(1)(z)1., Florida Statutes].

(k) Representing to the applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge when such charge is required. [Section 626.9541(1)(z)2., Florida Statutes].

(l) Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the insurance coverage

applied for, without the informed consent of the applicant. [Section 626.9541(1)(z)3., Florida Statutes].

26. If the violations are proven Petitioner intends to impose discipline under the provisions set forth in Sections 624.15, 626.611, 626.621, 626.681, 626.691, 626.9521, Florida Statutes (2004), and Florida Administrative Code Chapter 69B-231.

27. To understand the statutory references within the Administrative Complaint, resort is made to definitions set forth in Section 626.015, Florida Statutes (2004), which states in pertinent part:

* * *

(2) "Agent" means a general lines agent, life agent, health agent, or title agency, or all such agents, as indicated by context. The term "agent" includes an insurance producer or producer, but does not include a customer representative, limited customer representative or service representative.

(3) "Appointment" means the authority given by an insurer or employer to a licensee to transact insurance or adjust claims on behalf of an insurer or employer.

(4) "Customer representative" means an individual appointment by a general lines agent or agency to assist that agent or agency in transacting the business of insurance from the office of that agent or agency.

(5) "General lines agent" means an agent transacting any one or more of the following kinds of insurance:

(a) Property insurance.

(b) Casualty insurance, including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund as defined in s. 624.462, or a workers' compensation self-insurance fund established pursuant to s. 624.4621.

(c) Surety insurance.

(d) Health insurance, when transacted by a insurer also represented by the same agent as to property or casualty or surety insurance.

(e) Marine insurance.

* * *

(9) "License" means a document issued by the department or office authorizing a person to be appointed to transact insurance or adjust claims for the kind, line, or class of insurance identified in the document.

(10) "Life agent" means an individual representing an insurer as to life insurance and annuity contracts, including agents appointed to transact life insurance, fixed-dollar annuity contracts, or variable contracts by the same insurer.

* * *

28. According to the Administrative Complaint Count I, Ms. Turnbull's actions in selling the life insurance to William L. Green was a violation of the following provisions:

Section 624.11(1), Florida Statutes (2004)
Compliance required.--

(1) No person shall transact insurance in this state, or relative to a subject of insurance resident, located or to be performed in this state, without complying with the applicable provisions of this code.

Section 626.112(2), Florida Statutes (2004):
**License and appointment required; agents;
customer representatives, adjusters,
insurance agencies, service representatives,
managing general agents.--**

No agent or customer representative shall solicit or otherwise transact as agent or customer representative, or represent or hold himself or herself out to be an agent or customer representative as to, any kind or kinds of insurance as to which he or she is not licensed and appointed.

**Section 626.611(4), Florida Statutes:
Grounds for compulsory refusal, suspension,
or revocation of agent's, title agency's,
adjusters, customer representative's,
service representative's, or managing
general agent's license or appointment.--**

(4) If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this code.

* * *

(7) Demonstrated lack of fitness or trustworthiness to engage in the business of insurance.

* * *

(13) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this code.

**Section 626.621(2), Florida Statutes:
Grounds for discretionary refusal,
suspension, or revocation of agent's,
adjuster's, customer representative's,
service representative's, or managing
general agent's license or appointment.--**

(2) Violation of any provisions of this

code or of any other law applicable to the business of insurance in the course of dealing under the license or appointment.

Florida Administrative Code Rule 69B-213.050(3).

* * *

A customer representative license does not grant the customer representative any authority to transact life insurance or annuities. A customer representative may only handle duties relating to life insurance and annuities if such duties may be performed by unlicensed persons, as provided in Rule Chapter 69B-222, F.A.C., and the insurance Code, or if the customer representative also holds a life agent license. This applies even though the supervising agent holds a life agent license in addition to a general lines license.

Florida Administrative Code Rule 69B-213.110(3).

* * *

The customer representative shall exercise great care in not going beyond the licensure, training, expertise and experience and experience of the customer representative. In the event of uncertainty as to whether the customer representative is competent to advise or perform regarding any insurance matter, the uncertainty shall be resolved in favor of referring the matter to the supervising agent.

29. As stated, the Administrative Complaint accuses Respondent of aiding and abetting Ms. Turnbull in the above-stated violations of the Insurance Code. The sections that form the basis for Respondent's alleged violations are comparable to

the provisions related to Ms. Turnbull's conduct, with exception of Section 626.112(2), Florida Statutes (2004), that is not referred to when addressing Respondent's conduct nor is mention made of Florida Administrative Code Rules 69B-213.050(3) and 213.110(3). Unlike the violations pertaining to Ms. Turnbull, Respondent's actions include an alleged violation of Section 626.621(12), Florida Statutes (2004) which prohibits a person from:

Knowingly aiding, assisting, procuring, advising or abetting any person in the violation of or to violate a provision of the insurance code or any order or rule of the department, commission, or office.

30. When Ms. Turnbull sold Mr. Green life insurance, she did not comply with the Insurance Code as required by Section 624.11(1), Florida Statutes (2004). She did not hold a class (2-14) agent license appointed under Direct Life Insurance Company. She was a customer representative (4-40). A customer representative was not entitled to solicit or transact insurance business. § 626.112(2), Fla. Stat. (2004). Her actions contemplate the opportunity to impose discipline against her license for violation of Sections 626.611(4), (7), and (13), Florida Statutes (2004), as well as Section 626.621(2), Florida Statutes (2004).

31. Ms. Turnbull's actions in selling the life insurance were contrary to the prohibition against a customer

representative transacting life insurance or annuities as addressed in Florida Administrative Code Rule 69B-213.050(3), and went beyond her licensure contrary to Florida Administrative Code Rule 69B-213.110(3).

32. Clear and convincing evidence was presented that Respondent aided and abetted Ms. Turnbull in violating the Insurance Code, contrary to Section 626.621(12), Florida Statutes (2004), when he executed the application by affixing his name, license number, and signature without further involvement with the customer Green in the process. The substance of the life insurance purchase took place between Mr. Green and Ms. Turnbull. In any solicitation or explanation leading to the purchase, Respondent willfully used his license in the category (2-14), to circumvent the prohibitions of the Insurance Code when assisting Mr. Turnbull's action in the life insurance sale to Mr. Green. Thus he violated Section 626.611(4), Florida Statutes (2004), as well as Section 626.611(13), Florida Statutes (2004), and Section 626.621(2), Florida Statutes (2004).

33. In summary, Respondent has violated Count I in the manner explained.

34. Count II has not been proven. It was not shown that Respondent sold Brandi Dean an accidental medical protection plan on February 8, 2005, as alleged.

35. The Administrative Complaint refers to Section 624.15, Florida Statutes (2004), as a basis for punishment.

It states as follows:

General penalty.--Each Willful violation of this code as to which a greater penalty is not provided by another provision of this code or by other applicable laws of this state is a misdemeanor of the second degree and is, in addition to any prescribed of certificate of authority, license, or permit, punishable as provided in s. 775.082 or s. 775.083. Each instance of such applicable denial, suspension, or revocation violation shall be considered a separate offense.

That provision is unrelated to administrative discipline.

36. Sections 626.611 and 626.621, Florida Statutes (2004), allow discipline to be imposed wherein they state:

626.611: Grounds for compulsory refusal, suspension, or revocation of agent's title agency's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.

* * *

626.621: Grounds for discretionary refusal, suspension, or revocation of agent's adjuster's, customer representative's, service representative's or managing general agent's license or appointment.

37. Section 626.681, Florida Statutes (2004), allows an administrative fine to be imposed where it describes the imposition of an:

Administrative fine in lieu of or in addition to suspension, revocation,
. . . .

38. Section 626.691, Florida Statutes (2004), allows the establishment of probation for violations where it states:

626.691 Probation.-

(1) If the department finds that one or more grounds exist for the suspension, revocation, or refusal to renew or continue any license or appointment issued under this part, the department may, in its discretion, except when an administrative fine is not permissible under s. 626.681 or when such suspension, revocation, or refusal is mandatory, in lieu of or in addition to such suspension or revocation, or in lieu of such refusal or in connection with any administrative monetary penalty imposed under s. 626.681, place the offending licensee or appointee on probation for a period not to exceed 2 years, as specified by the department in its order.

(2) As a condition to such probation or in connection therewith, the department may specify in its order reasonable terms and conditions to be fulfilled by the probationer during the probation period. If during the probation period the department has good cause to believe that the probationer has violated a term or condition, it shall suspend, revoke, or refuse to issue, renew, or continue the license or appointment of the probationer, as upon the original grounds referred to in subsection (1).

39. The Administrative Complaint refers to the Section 626.9521, Florida Statutes (2004), which states:

Unfair methods of competition and unfair or deceptive acts or practices prohibited; penalties.--

(1) No person shall engage in this state in any trade practice which is defined in this part as, or determined pursuant to s. 626.951 or s. 626.9651 to be, an unfair method of competition or an unfair deceptive act or practice involving the business of insurance.

(2) Any person who violates any provision of this part shall be subject to a fine in any amount not greater than \$2,500 for each nonwillful violation and not greater than \$20,000.00 for each willful violation. Fines under this subsection may not exceed an aggregate amount of \$10,000.00 for all nonwillful violations arising out of the same action or an aggregate amount of \$100,000 for all willful violations arising out of the same action. The fines authorized by this subsection may be imposed in addition to any other applicable penalty.

No violation was proven concerning this Section that would allow the imposition of a fine under its terms.

40. Florida Administrative Code Chapter 69B-231, set outs guidelines for imposing penalties for violations. It has been consulted in arriving at a recommended penalty in this case.

RECOMMENDATION

Upon consideration of the facts found and the conclusions of law reached, it is

RECOMMENDED:

That Petitioner enter a final order finding a violation under Count I as set forth in the conclusions of law, dismissing Count II and suspending Respondent's license for six months for the violation.

DONE AND ENTERED this 7th day of May, 2007, in Tallahassee, Leon County, Florida.

S

CHARLES C. ADAMS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 7th day of May, 2007.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.