

**FILED**

**C5607**

MAY 29 2012



Docketed by [Signature]

CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
STATE OF FLORIDA

IN THE MATTER OF:  
  
FRANCELINE PIERRE  
  
\_\_\_\_\_ /

Case No. 121180-11-AG  
DOAH CASE NO. 11-6049

FINAL ORDER

THIS CAUSE came on for consideration of and final agency action on the Recommended Order issued on March 26, 2012, attached hereto as Exhibit A. Pursuant to Section 120.57(1), Florida Statutes, a formal hearing was conducted on February 9, 2012, via video teleconference in Tallahassee, Florida, before Administrative Law Judge June C. McKinney. The Department timely filed exceptions. No responses thereto were filed.

**RULINGS ON THE DEPARTMENT'S EXCEPTIONS**

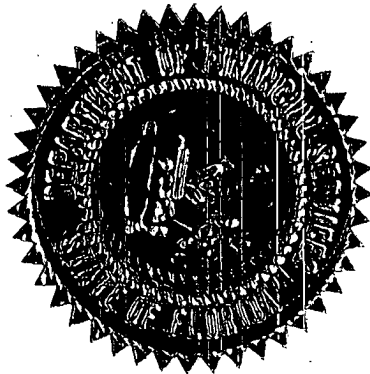
The Department's first and second exceptions are based on the use of the words "appointment" and "appointments" in the Findings of Fact in Paragraphs 14 and 15 of the Recommended Order. The exceptions contend that an "appointment" is a legal term referring to the "appointment" of an insurance agent by an insurance carrier so as to authorize the agent to act in the name of the carrier. However, viewed in the context of the facts of this case, it appears that the ALJ was using those terms to refer to the process of scheduling office appearances by prospective insureds for the purpose of filling out insurance applications. Thus, while the exception is correct in a legal sense, it is contextually inapplicable here and is therefore rejected.


The Department's third exception is directed to the Conclusion of Law in Paragraph 34 of the Recommended Order wherein the ALJ concluded that no Department rule or order had been violated. The Department contends to the contrary. A review of the record shows that, as the exception admits, the Department never alleged that any particular rule or order was violated. Without such a specific allegation, a general finding of such a violation cannot stand unless at hearing the Respondent implicitly or expressly concedes violating a particular rule or order, whereupon the Department can move to have the its pleadings conform to the evidence. Fla. R. Civ. P. 1.190. That was not the case here, so this exception is rejected.

After review of the record, including the transcript of proceedings and admitted exhibits, and being otherwise fully apprised in all material premises,

IT IS HEREBY ORDERED that the ALJ's Findings of Fact and Conclusions of Law set forth in the Recommended Order are adopted as the Department's Findings of Fact and Conclusions of Law, and that Franceline Pierre's application for licensure as a General Lines Insurance Agent is Denied.

DONE and ORDERED this 29<sup>th</sup> day of May, 2012.



  
Robert C. Kneip  
Chief of Staff

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 petition or notice of appeal with Julie Jones, DFS Agency Clerk, at 612 Larson Building, Tallahassee, Florida 32399-0390 and a copy of the same with the appropriate District Court of Appeal within thirty (30) days of rendition of this Order.

Copies furnished to:

Franceline Pierre, Pro Se  
Robert P. Blaesser, Esquire (For Department)  
June C. McKinney, ALJ