

FILED

MAR 21 2017

Docketed by JAS



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF:

CASE NO.: 205717-17-AG

CARLOS ALBERTO ZALDIVAR/

NOTICE OF TEMPORARY SUSPENSION

COMES NOW the Chief Financial Officer, by and through his named designee, pursuant to section 626.611(2), Florida Statutes, and issues this Order temporarily suspending all licenses and appointments heretofore issued to Carlos Alberto Zaldivar, under chapter 626, Florida Statutes, and as grounds therefore finds:

1. Carlos Alberto Zaldivar is currently licensed in this state as a general lines agent pursuant to chapter 626, Florida Statutes.

2. At all times relevant to the dates and occurrences set forth herein, Carlos Alberto Zaldivar was licensed in this state as a general lines agent.

3. On March 03, 2017, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Case No. F17001537, an Information was filed against Carlos Alberto Zaldivar alleging one (1) count of Uttering Forged Instrument (certificate of insurance issued in relation to an insurance policy), one (1) count of Motor Vehicle Insurance Card/False/Fraudulent and one (1) count of Worker's Compensation/Misrepresentation by False or Misleading Statement Less than \$20,000, in violation of section 440.105(4)(b), all felonies.

4. Pursuant to section 626.611(2), Florida Statutes:

The department shall, upon receipt of information or an indictment, immediately temporarily suspend a license or appointment issued under this chapter when the

licensee is charged with a felony enumerated in s. 626.207(3). Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

5. Pursuant to sections 626.207(3) and 626.611(2), Florida Statutes, the Department shall immediately suspend the license of a licensee who was charged with a felony of the first degree, a capital felony, a felony involving money laundering, fraud, or embezzlement, or a felony directly related to the financial services business.

Notice is hereby given that the Department shall take prompt action to revoke the license of Carlos Alberto Zaldivar in the event he pleads guilty or nolo contendere to a felony, a crime involving moral turpitude or a crime punishable by imprisonment of one year or more under the law of any state, territory or country whether or not a judgment or conviction has been entered, in accordance with sections 626.611 and 626.621, Florida Statutes.

WHEREFORE, IT IS HEREBY ORDERED:

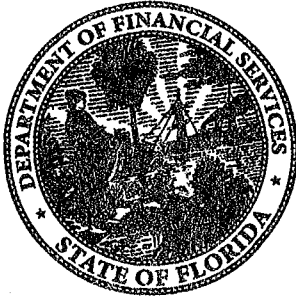
(a) All licenses issued by the Department and held by Carlos Alberto Zaldivar are hereby SUSPENDED.

(b) Carlos Alberto Zaldivar shall immediately cease and desist from writing, issuing, or soliciting insurance in the State of Florida.

(c) During the period of suspension, Carlos Alberto Zaldivar shall not: 1) directly or indirectly engage in, or attempt or profess to engage in, any transaction or business for which a license or appointment is required under the Florida Insurance Code; 2) directly or indirectly control an agent, agency, adjuster, or adjusting firm, or otherwise participate in the business activities of such person, agency or firm; or 3) issue any checks, deposit any funds, or withdraw any funds from any financial institution account that is used for Florida-related insurance business or transactions.

(d) Any person who knowingly transacts insurance or otherwise engages in insurance activities in this state without a license, or while the license is suspended or revoked, commits a felony of the third degree.

DATED AND SIGNED this 21st day of March, 2017.



A handwritten signature in black ink, appearing to read "Gregory Thomas", is written over a horizontal line.

Gregory Thomas
Director, Agent & Agency Services

Digitally signed by Agency Clerk
Date: 2017.03.21 15:48:44 -04'00'

NOTICE OF RIGHTS

You have the right to request a proceeding to contest this action by the Department of Financial Services (the "Department") pursuant to sections 120.569 and 120.57, Florida Statutes, and chapter 28-106, *Florida Administrative Code*. The proceeding request must be in writing, signed by you, and must be filed with the Department within twenty-one (21) days of your receipt of this notice. Completion of the attached Election of Proceeding form and petition for administrative hearing are required. The request must be filed with Julie Jones, DFS Agency Clerk, at the Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390. Your written response must be received by the Department no later than 5:00 p.m. on the twenty-first day after your receipt of this notice. Mailing the response on the twenty-first day will not preserve your right to a hearing.

FAILURE TO ENSURE THAT YOUR WRITTEN RESPONSE IS RECEIVED BY THE DEPARTMENT WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THIS NOTICE WILL CONSTITUTE A WAIVER OF YOUR RIGHT TO REQUEST A PROCEEDING ON THE MATTERS ALLEGED HEREIN AND THIS NOTICE OF TEMPORARY SUSPENSION SHALL BE FINAL AND REMAIN IN EFFECT, AND YOUR LICENSES SHALL CONTINUE TO REMAIN SUSPENDED, UNTIL THE CRIMINAL CHARGES ARE DISPOSED OF. HOWEVER, IF YOU ARE FOUND GUILTY OF, OR PLEAD GUILTY OR NOLO CONTENDERE TO, THE CRIMINAL CHARGES, REGARDLESS OF WHETHER A JUDGMENT OR CONVICTION IS ENTERED, THE TEMPORARY SUSPENSION SHALL REMAIN IN EFFECT AND YOUR LICENSES SHALL CONTINUE TO REMAIN SUSPENDED, INCLUDING DURING ANY PENDING APPEAL OF THE CRIMINAL CHARGES.

If you request a proceeding, you must provide information that complies with the requirements of Rule 28-106.2015, *Florida Administrative Code*. Specifically, your response must contain:

(a) The name, address, telephone number, and facsimile number (if any) of the respondent (for the purpose of requesting a hearing in this matter, you are the "respondent").

(b) The name, address, telephone number, and facsimile number of the attorney or qualified representative of the respondent (if any) upon whom service of pleadings and other papers shall be made.

(c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

(d) A statement of when the respondent received the notice of temporary suspension.

(e) A statement including the file number to the notice of temporary suspension.

If a hearing of any type is requested, you have the right to be represented by counsel or other qualified representative at your expense, to present evidence and argument, to call and cross-examine witnesses, and to compel the attendance of witnesses and the production of documents by subpoena.

If a proceeding is requested and there is no dispute of material fact, the provisions of section 120.57(2), Florida Statutes, apply. In this regard, you may submit oral or written evidence in opposition to the action taken by the Department or a written statement challenging the grounds upon which the Department has relied. While a hearing is normally not required in the absence of

a dispute of fact, if you feel that a hearing is necessary, one will be conducted in Tallahassee, Florida, or by telephonic conference call upon your request.

However, if you dispute material facts which are the basis for the Department's action, you must request an adversarial proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes. These proceedings are held an administrative law judge of the State of Florida Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Department will request that the hearing be conducted in Tallahassee, Florida.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. All prior oral communication or correspondence in this matter shall be considered free form agency action, and no such oral communication or correspondence shall operate as a valid request for an administrative proceeding. Any request for an administrative proceeding received before the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

Mediation of this matter pursuant to section 120.573, Florida Statutes, is not available. No Department attorney will discuss this matter with during the time frame in which you have to request a hearing.

NOTICE OF RIGHT TO APPEAL

Any party to these proceedings adversely affected by this Order is entitled to seek review within thirty (30) days of the rendition of this Order, pursuant to section 120.68, Florida Statutes, and Rule 9.190, *Florida Rules of Appellate Procedure*. Review proceedings must be instituted by filing a petition or notice of appeal with Julie Jones, the DFS Agency Clerk. Filing with the Agency Clerk may be accomplished via U.S. Mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail. The address for overnight delivery or hand delivery is Julie Jones, DFS Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida, 32399-0390. The fax number is (850) 488-0697. The email address is Julie.Jones@myfloridacfo.com.

A copy of the petition or notice of appeal must also be filed with the appropriate district court of appeal within thirty (30) days of the rendition of this Order.

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF LEGAL SERVICES

IN THE MATTER OF:

CASE NO.: 205717-17-AG

CARLOS ALBERTO ZALDIVAR/

ELECTION OF PROCEEDING

I have received and have read the Notice of Temporary Suspension filed by the Florida Department of Financial Services ("Department") against me, including the Notice of Rights contained therein, and I understand my options. I am requesting disposition of this matter as indicated below. **(CHOOSE ONE)**

1. ☐ I do not dispute any of the Department's factual allegations and I do not desire a hearing. I understand that by waiving my right to a hearing, the Notice of Temporary Suspension shall be final and remain in effect, and my licenses shall continue to remain suspended, until the criminal charges are disposed of. However, if I am found guilty of, or plead guilty or nolo contendere to, the criminal charges, regardless of whether a judgment or conviction is entered, the temporary suspension shall remain in effect and my licenses shall continue to remain suspended, including during any pending appeal of the criminal charges.

2. I do not dispute any of the Department's factual allegations and I hereby elect a proceeding to be conducted in accordance with section 120.57(2), *Florida Statutes*. In this regard, I desire to **(CHOOSE ONE)**:
 - ☐ Submit a written statement and documentary evidence in lieu of a hearing; or
 - ☐ Personally attend a hearing conducted by a department hearing officer in Tallahassee; or
 - ☐ Attend that same hearing by way of a telephone conference call.

3. ☐ I do dispute one or more of the Department's factual allegations. I hereby request a hearing pursuant to section 120.57(1), *Florida Statutes*, to be held before the Division of Administrative Hearings. I have attached to this election form the information required by Rule 28-106.2015, *Florida Administrative Code*, as specified in the Notice of Rights. Specifically, I have identified the disputed issues of material fact.

TO PRESERVE YOUR RIGHT TO A HEARING, YOU MUST FILE YOUR RESPONSE WITH THE DEPARTMENT OF FINANCIAL SERVICES WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THE NOTICE OF TEMPORARY SUSPENSION. THE RESPONSE MUST BE RECEIVED BY THE DEPARTMENT NO LATER THAN 5:00 P.M. ON THE TWENTY-FIRST DAY AFTER YOUR RECEIPT OF THE NOTICE OF TEMPORARY SUSPENSION.

The address for filing is: Julie Jones, DFS Agency Clerk, Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390.

Signature

Date: _____

Date Notice of Temporary
Suspension Received: _____

If you are represented by an attorney or qualified
representative, please attach to this election form his
or her name, address, telephone and fax numbers

Print Name

Address: _____

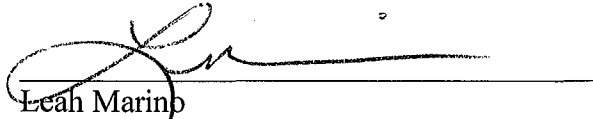
Phone No.: _____

Fax No.: _____

E-mail: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Temporary Suspension has been furnished to: Carlos Alberto Zaldivar, 12890 Northwest 7th Avenue, Miami, Florida 33168, Carlos Alberto Zaldivar, 2941 Southwest 116th Avenue, Davie, Florida 33330, Howard J. Hochman, 7695 Southwest 104th Street, Suite 210, Pinecrest, Florida 33156 by Certified Mail this 21st day of March, 2017.



Leah Marino
Managing Attorney
Department of Financial Services
Office of the General Counsel
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0333