

FILED

Department of Financial Services

Agency Clerk

Date: 7/19/21

**PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES**

IN THE MATTER OF:

David Dominguez

PETITION FOR DECLARATORY STATEMENT

Petitioner, DAVID DOMINGUEZ, pursuant to Rule Chapter 28-105, Florida Administrative Code, hereby requests a declaratory statement from the Florida Department of Financial Services and as grounds therefore states the following:

1. Petitioner's Name and Address:

Name: David Dominguez
Address: 1110 W Commercial Blvd, Ft Lauderdale FL 3330
Telephone Number: (954) 552-1472
Facsimile Number: None
E-mail address: dd1012@universalproperty.com

2. Name and Address of Petitioner's Attorney or Qualified Representative, if any:

Name, None

3. Statute(s), Agency Rule(s), Agency Order(s) and/or Code Section(s) on which the Declaratory Statement is Sought:

626.8795 Public adjusters; prohibition of conflict of interest. This statute states the following: - A public adjuster may not participate, directly or indirectly, in the reconstruction, repair, or restoration of damaged property that is the subject of a claim adjusted by the licensee; may not engage in any other activities that may be reasonably construed as a conflict of interest, including soliciting or accepting any remuneration from, of any kind or nature, directly or indirectly; and may not have a financial interest in any salvage, repair, or any other business entity that obtains business in connection with any claim that the public adjuster has a contract or an agreement to adjust.

4. Description of how the Statute(s), Agency Rule(s), Agency Order(s), and/or Code Section(s) may Substantially Affect the Petitioner in the Petitioner's Particular Set of Circumstances:

Routinely homeowner insurance claims are reported by a public adjuster on behalf of a policyholder to address damages sustained during a water leak event. In addition, the homeowner insurance carrier received invoices and demand for payment under an executed Assignment of Benefits (AOB) or Direction to Pay (DTP) from third party water mitigation and/or mold remediation companies for services reportedly provided to the insured property for the same loss which the public adjuster had been retained. My investigations have revealed a direct relationship between the public adjuster and owner/principle officer of

the water mitigation/mold remediation company. These relationships have been found between multiple public adjusters and their associated water mitigation/mold remediation providers. In addition, an audit of claim files involving these water mitigation/mold remediation providers have concluded that the public adjuster retained in these claims are the same in the vast majority if not all the claims reported. The following are examples of what my audit of claims reported in 2019 through 2021 reflect:

Public Adjuster/Vendor	Relationship	Claims Together
Superior Insurance Claim Consultants - Moises Garcia (License #E158218) & Restoration Heros, LLC – Janelle Acosta	Married	96% of Claims (45 of 47)
Capital Claims Public Adjusters, Inc. – Anaely Pardo (License #P058279) & Emergency Remediation Services LLC – Anthony Pardo	Mother & Son	100% of Claims (243 of 243)
A1 Property Damage Claims Agency, Inc. (DBA Century Public Adjusters) – Lilian Fish (License #E082545) & National Water Restoration – Jonathan Fish & Chana Fish	Mother & Son	95% of Claims (373 of 393)

A company that provides water mitigation services expands the scope of area damaged by the loss reported citing the need for remediation. These actions include drilling into walls & kitchen cabinets; removal of wood and tile baseboards; removal of walls; and removal of flooring even though the areas were not involved in the loss being reported or exhibiting any actual damages. In certain claims the same mitigation company is also the company used to trench floors event though they did not hold the license to perform the service. All of this is performed before the claim is even reported to the insurance carrier and subsequently prejudices the ability to determine if a loss occurred or that damages were sustained.

In these claims the only supporting evidence that a policyholder presents in support of the loss is the records prepared by the mitigation company which is also has a direct relationship with the public adjuster they have contracted. In many incidences my investigation has discovered that the policyholder had no knowledge of the relationship until they had been advised by me. Furthermore, in many incidences we have discovered through the policyholder that the water mitigation company is brought into the claim by the public adjuster themselves or a public adjuster from their public adjusting company they own.

This interaction by the public adjuster; with the water mitigation company; in claims that they have been retained to represent the policyholder appears to be a violation of statute. Even though there is a violation of Florida Statute; there is no direction on how to address the demand for payment that is being made by the mitigation company that is involved in the claim in violation of statute.

5. Address of The Building or Structure, or Proposed Building or Structure, Affected by this Petition, if applicable:

The actions detailed above involves 100's if not 1,000's of homeowners throughout the State of Florida

6. Are you involved in any litigation related to the question(s) presented in this case? Yes No

7. QUESTION(S):

I am seeking clarification from the department in determining the scope of the definition of "directly or indirectly" as stated in Florida Statute 626.8795 Public adjusters; prohibition of conflict of interest. In addition, what recourse does the insurance carrier have regarding the demand for payment being made by a vendor who submitted their invoice for service under an AOB or DTP.

Respectfully submitted this 13th day of July , 2021


David Dominguez