

**FILED**

MAY 24 2023



Docketed By: AB

CHIEF FINANCIAL OFFICER  
JIMMY PATRONIS  
STATE OF FLORIDA

In The Matter Of:

WINDSTORM INSURANCE NETWORK,  
THE INSURANCE APPRAISAL AND UMPIRE  
ASSOCIATION, AND THE  
PROPERTY LOSS APPRAISAL NETWORK

CASE NO.: 306976-23-DS

Petition for Declaratory Statement to the  
Florida Department of Financial Services

DENIAL OF PETITION FOR DECLARATORY STATEMENT

THIS CAUSE came on for consideration upon receipt of a Petition for Declaratory Statement Before the Department of Financial Services ("Petition") from Windstorm Insurance Network, the Insurance Appraisal and Umpire Associates, and the Property Loss Appraisal Network ("Petitioners"), received by the Department of Financial Services, Division of Insurance Agent and Agency Services ("Department"), on February 23, 2023. On March 21, 2023, Citizen's Property Insurance Corporation filed a Motion to Intervene in Petitioners' Petition for Declaratory Statement. Upon consideration of the Petition, and being duly advised, the Department finds as follows:

1. The Department of Financial Services has jurisdiction over the subject matter.
2. This denial is premised upon the assertions of fact set forth in the Petition. Any modification to those assertions of fact could alter the conclusions in this denial. None of the assertions of fact are admitted by the Department as being true and Petitioner's questions are being answered as purely hypothetical.

3. Legal assertions, conclusions, and arguments contained in the Petition, if any, are not adopted by the Department, and are not used as legal premises or authority for the Department's conclusions.

#### BACKGROUND AND FACTS ASSERTED

4. The Petition was filed pursuant to section 120.565, Florida Statutes, which authorizes a substantially affected person to "seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

5. The facts asserted underlying the Petition are attached hereto as "Exhibit 1".

#### QUESTIONS

6. The Petition, which the Department denies, poses the following questions to the Department:

A. Whether Petitioners' training and certification of unlicensed individuals as appraisers is compliant with Fla. Stat. §626.854(1), Fla. Stat. §626.855 and Florida's Insurance Code.

B. Whether Petitioners' training and certification of unlicensed individuals as appraisers facilitates violations of Fla. Stat. §626.854(1), Fla. Stat. §626.855 and Florida's Insurance Code.

#### DISCUSSION

7. While Petitioners posture their inquiry as whether their particular training and certification programs violate the above Florida Statutes, a statement on those programs amounts to a statement on any such training and certification programs that exist or may yet be created,



whether by Petitioners or others. In fact, at bottom the Petition asks the Department to address the broad issue of whether appraising is an activity that requires an adjusters' license. As a result, the Petition requests an impermissibly broad statement of general applicability. *See Lennar Homes, Inc. v. Dep't of Bus. & Pro. Regul., Div. of Fla. Land Sales, Condominiums & Mobile Homes*, 888 So. 2d 50 (Fla.1st DCA 2004) (holding that issuance of declaratory statement as to whether including a mandatory arbitration provision in appellant's condominium purchase and sale agreements is prohibited exceeded appellee's authority due to such a statement effectively announcing a broad agency policy applicable to all condominium purchase and sale agreements with mandatory arbitration provisions, not just appellant's).

8. Additionally, pursuant to Rule 28-102.001, *Florida Administrative Code*, "[a] petition for declaratory statement may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to a petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person." *See Manasota-88, Inc. v. Gardinier, Inc.*, 481 So. 2d 948 (Fla. 1st DCA 1986) (holding that appellant was a third party asking about the applicability of statutory provisions to appellee, not itself). The questions posed by Petitioners seek a declaration that would address the conduct of many other unlicensed individuals working as appraisers, licensed adjusters acting as appraisers, and entities that employ either. The conduct of those third parties is not relevant to Petitioners' particular set of circumstances set forth in the Petition. Moreover, the Petition expressly implicates the conduct of a specific individual not related to Petitioners and their particular circumstances. !

9. The Department's denial of the Petition for Declaratory Statement renders moot the Motion to Intervene filed by Citizen's Property Insurance Company.

Accordingly, the Petition for Declaratory Statement and Motion to Intervene are DENIED.

DONE and ORDERED this 24 day of May 2023.



A handwritten signature in blue ink, appearing to read "Gregory Thomas".

---

Gregory Thomas, Director  
Division of Insurance Agent and Agency Services

## NOTICE OF RIGHT TO APPEAL

A party adversely affected by this Final Order may seek judicial review as provided in section 120.68, Florida Statutes, and Florida Rule of Appellate Procedure 9.190. Judicial review is initiated by filing a notice of appeal with the Agency Clerk, and a copy of the notice of appeal, accompanied by the filing fee, with the appropriate district court of appeal. The notice of appeal must conform to the requirements of Florida Rule of Appellate Procedure 9.110(d), and must be filed (i.e., received by the Agency Clerk) within thirty days of rendition of this Final Order.

Filing with the Department's 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 DFS Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390. The facsimile number is (850) 488-0697. The email address is DFSAgencyClerk@myfloridacfo.com.

Copies furnished to:

**Windstorm Insurance Network**

Charlie Baker, President  
cbaker@pibadjusters.com

Gina Clausen Lozier, Appraisal and Umpire Committee  
gclausen@ccattorneys.com

Justin Whedbee, Appraisal and Umpire Committee  
JWhedbee@mas-solutions.com  
2800 Eisenhower Ave.  
Suite 210  
Alexandria, VA 22314  
1-800-905-9463

**Insurance Appraisal and Umpire Association, Inc.**

Robert Norton  
bob@generaladjustingservices.com  
20423 SR7  
Suite F6-288  
Boca Raton, FL 33498  
813-757-6450

**The Property Loss Appraisal Network (P.L.A.N.)**

John C. Robison  
P.L.A.N. Founder & Educator  
j.robison@csigroupna.com  
151 W. Main Street  
Suite 103  
Canton, GA 30114  
1-844-344-7526

**Citizens Property Insurance Corporation**

Russell S. Kent  
Florida Bar No. 20257  
2101 Maryland Circle  
Tallahassee, Florida 32303  
850-668-0306

Greg Caracci, Esq.,  
Attorney for the Department  
Department of Financial Services  
200 East Gaines Street  
Tallahassee, FL 32399-0333  
Greg.Caracci@myfloridacfo.com

**PETITION FOR DECLARATORY STATEMENT BEFORE THE FLORIDA  
DEPARTMENT OF FINANCIAL SERVICES, DIVISION OF INSURANCE AGENT  
AND AGENCY SERVICES**

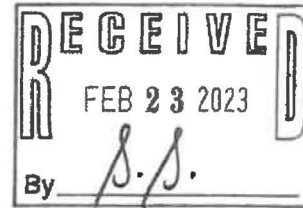
Windstorm Insurance Network, the Insurance Appraisal and Umpire Association, Inc. and the Property Loss Appraisal Network,

Petitioners,

v.

Department of Financial Services,  
Division of Insurance Agent and Agency Services,

Respondent.



**PETITION FOR DECLARATORY STATEMENT**

Pursuant to Fla. Stat. §120.565, the Windstorm Insurance Network (“WIND”), the Insurance Appraisal and Umpire Association, Inc. (“IAUA”) and the Property Loss Appraisal Network (“PLAN”) (collectively referred to as the “Petitioners”) seek a Declaratory Statement from the Florida Department of Financial Services, Division of Insurance Agent and Agency Services (“Division”) as to the applicability of a statutory provision to the Petitioners particular set of circumstances. Specifically, Petitioners are in doubt as to whether their current educational curriculum regarding the certification, education, and training of appraisers without Florida adjuster licenses violates, and facilitates the violation of, Fla. Stat. §626.854(1), Fla. Stat. §626.855 and the Florida Insurance Code.

**II. The Petitioners.**

Petitioners provide specific and targeted educational training throughout Florida to current and prospective appraisers. The training includes providing appraiser certification and



designations to individuals who are not licensed Florida adjusters under a 6-20, 3-20 or any other applicable Florida adjuster license.

The WIND Certified Appraiser Program® was introduced in 2012 to enhance the professionalism and ethics of property insurance appraisers. Each year, hundreds of property insurance claims professionals complete the four-hour WIND Certified Appraiser® program taught annually at the Windstorm Insurance Conference. Upon completion of the program, professionals further their credentials by successfully meeting the guidelines and criteria to become a WIND Certified Appraiser®. The program, which includes the WIND Certified Appraiser class and the WIND Certified Appraiser Recertification class®, is a valuable educational resource for those wanting to further their understanding of the property insurance appraisal process. WIND educates, certifies and recertifies individuals as appraisers who do not hold a Florida's adjusters license.

The IAUA is an educational association focused solely on appraisal dedicated to providing help and guidance related to property insurance appraisals. The IAUA was founded in 2009 and has been providing training since 2010 for appraisers and umpires both domestically and internationally. The IAUA routinely holds certification courses in Florida and certifies appraisers in Florida. The IAUA educates and certifies individuals as appraisers who do not hold a Florida adjusters license.

PLAN was founded in 2015 and has provided certification programs since 2017. PLAN provides an appraisal certification program course which focuses on providing an understanding of the appraisal by first gaining an understanding of the attendee's experience in appraisals, their understanding of the process and its intended usage in property loss disputes. The PLAN course also focuses on strengthening the morals, ethics, integrity and professionalism of



those who serve as appraisers. The Appraiser Certification Seminar is provided over a 3-day period with a graded and proctored test during the final day. To obtain their Appraiser Certification Attendees must have a passing grade on the test. PLAN educates and certifies individuals as appraisers who do not hold a Florida adjuster's license.

Petitioners have and continue to educate, train and certify individuals as appraisers who do not hold licenses as Florida adjusters.

**II. Petitioners' Doubts Concerning the Applicability of Fla. Stat. §626.854(1) and Fla. Stat. §626.855 to their Particular Set of Circumstances.**

On December 16, 2022, the Division, in the matter of the *Florida Department of Financial Services, Division of Insurance Agent and Agency Services v. Scott David Thomas* (DOAH Case No. 22-0984PL) submitted its Proposed Written Report and Recommended Order to the State of Florida Division of Administrative Hearings (the "Recommendation"). A copy of the Recommendation is attached as Exhibit A.

In its Recommendation, the Division stated:

*Because the work of an appraiser falls within the statutory definition of "public adjuster," an appraiser is subject to the requirements of the Florida Insurance Code. This would include the Adjuster's Code of Ethics. THE DEPARTMENT IS PERMITTED TO PROSECUTE A LICENSEE FOR CONDUCT OCCURRING OUTSIDE THE SCOPE OF LICENSURE. Exhibit A at ¶202. (emphasis added).*

A licensee can be held liable for conduct occurring outside of the scope of licensure can be found in the plain language of section 626.611, Florida Statutes. Id. at ¶206.

Section 626.611(1), Florida Statutes, provide grounds for the compulsory suspension or revocation of an agent's license, and provides, in relevant part:

The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist: (Emphasis added). Id. at ¶207.

Section 626.611(1), Florida Statutes, refers to the listed group of individuals subject to its provisions generally as “applicant” and “licensee.” Id. at ¶208.

Because the end of subsection one (1) uses the word “licensee,” the section applies to all licensees regardless of whether they are acting under the scope of their particular licenses. Id. at ¶209.

Sections 626.611(1) (a)-(d), (g)-(j), (m), and (n), Florida Statutes, apply generally as to all licensees. In contrast, subsection 626.611(1)(f), Florida Statutes, applies only to adjusters or agents licensed and appointed to adjust claims, and subsection 626.611(1)(l), Florida Statutes, only applies to general lines agents, life agents, and health agents. Accordingly, any argument that section 626.611(1)(g), Florida Statutes, does not apply to Respondent as a licensee is without merit. Id. at ¶210.

On January 30, 2023, the State of Florida, Division of Administrative Hearings issued its Recommended Order with respect to the conduct of David Scott Thomas (the “Order”). A copy of the Order is attached as Exhibit B. The Department held that:

Regarding Counts VI and X, much was made at hearing as to whether Respondent was acting as a public adjuster or an appraiser with respect to the two claims related to those counts. Regardless of whether Respondent performed some appraisal duties in connection with the claims addressed in Counts VI and X, the testimony elicited at hearing clearly establishes *that Respondent’s specific work on those claims involved conducting an inspection or investigation of the claim and that his work involved effecting a potential settlement or resolution of the claim. His involvement in the two claims fell within the scope of his role as a public adjuster* (emphasis added).

Based on the Recommendation and the Order, the Division suggests appraisers must be licensed adjusters and are therefore subject to the Adjuster’s Code of Ethics and the Florida Insurance Code. Accordingly, Petitioners are in doubt as to whether their training and certification of unlicensed individuals as appraisers is compliant with Fla. Stat. §626.854(1) and §626.855 which state:

626.854(1) A “public adjuster” is any person, except a duly licensed attorney at law as exempted under s. 626.860, who, for money, commission, or any other thing of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract or who advertises for employment as an adjuster of such claims. The term also includes any person who, for

money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of a public adjuster, an insured, or a third-party claimant. The term does not include a person who photographs or inventories damaged personal property or business personal property or a person performing duties under another professional license, if such person does not otherwise solicit, adjust, investigate, or negotiate for or attempt to effect the settlement of a claim.

626.855. An “independent adjuster” means a person licensed as an all-lines adjuster who is self-appointed or appointed and employed by an independent adjusting firm or other independent adjuster, and who undertakes on behalf of an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage.

Petitioners are further in doubt as to whether their training and certification of unlicensed individuals as appraisers facilitates violations of Fla. Stat. §626.854, Fla. Stat. §626.855 as well as Florida’s Insurance Code.

WHEREFORE, Petitioners request a Declaratory Statement with respect to following:

- A. Whether Petitioners training and certification of unlicensed individuals as appraisers is compliant with Fla. Stat. §626.854(1), Fla. Stat. §626.855 and Florida’s Insurance Code.
- B. Whether Petitioners’ training and certification of unlicensed individuals as appraisers facilitates violations of Fla. Stat. §626.854(1), Fla. Stat. §626.855 and Florida’s Insurance Code.

Dated February 23, 2023

Respectfully Submitted,

**Windstorm Insurance Network**



Charlie Baker, President  
[cbaker@pibadjusters.com](mailto:cbaker@pibadjusters.com)  
Gina Clausen Lozier, Appraisal and Umpire Committee  
[gclausen@ccattorneys.com](mailto:gclausen@ccattorneys.com)  
Justin Whedbee, Appraisal and Umpire Committee  
[JWhedbee@mas-solutions.com](mailto:JWhedbee@mas-solutions.com)  
2800 Eisenhower Ave.  
Suite 210  
Alexandria, VA 22314  
1-800-905-9463

**Insurance Appraisal and Umpire Association, Inc.**

/s/ Robert Norton

Robert Norton  
[bob@generaladjustingservices.com](mailto:bob@generaladjustingservices.com)  
20423 SR7  
Suite F6-288  
Boca Raton, FL 33498  
813-757-6450

**The Property Loss Appraisal Network (P.L.A.N.)**



John C. Robison  
P.L.A.N. Founder & Educator  
[j.robison@csigroupna.com](mailto:j.robison@csigroupna.com)  
151 W. Main Street  
Suite 103  
Canton, GA 30114  
1-844-344-7526

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF FINANCIAL SERVICES,  
DIVISION OF INSURANCE AGENT AND  
AGENCY SERVICES,  
Petitioner,

v.

DOAH Case No.: 22-984PL  
DFS Case No.: 266618-20-FC

SCOTT DAVID THOMAS,  
Respondent.

DEPARTMENT'S PROPOSED WRITTEN REPORT  
AND RECOMMENDED ORDER

COMES NOW the Petitioner, Department of Financial Services ("Department"), and hereby files the following Proposed Written Report and Recommended Order for consideration by the Administrative Law Judge, Robert Cohen.

APPEARANCES

For Petitioner: Marshawn Michael Griffin  
Department of Financial Services  
Office of the General Counsel  
200 East Gaines Street  
Tallahassee, Florida 32399-0333

Greg Caracci  
Department of Financial Services  
Office of the General Counsel  
200 East Gaines Street  
Tallahassee, Florida 32399-0333

For Respondent: Matthew Ladd  
4649 Ponce De Leon Blvd., Suite 301  
Coral Gables, FL 33146

STATEMENT OF THE ISSUE

Whether the disputed facts alleged in the ten-count Amended Administrative Complaint ("Complaint") filed against Scott David Thomas ("Respondent") prove that Respondent violated the statutes charged in the Complaint, and, if so, the penalty that should be imposed.

## PRELIMINARY STATEMENT

On March 2, 2022, the Department filed an eight-count Administrative Complaint against Respondent seeking to impose discipline against Respondent's public adjuster's license. On March 25, 2022, Respondent timely submitted a petition for hearing alleging that there were disputed issues of material fact and requesting a formal hearing pursuant to section 120.57(1), Florida Statutes. On March 30, 2022, the Department referred this matter to the Division of Administrative Hearings. This matter was initially set for final hearing on June 1, 2022. On April 27, 2022, the Department requested leave to amend the Administrative Complaint to add two additional counts. On May 9, 2022, this Court granted the Department's Motion for Leave to Amend. On May 13, 2022, Respondent timely submitted a response to the two additional counts. On May 24, 2022, the parties filed a Joint Motion to Continue. On May 24, 2022, this Court granted the Joint Motion to Continue and rescheduled this matter for an in-person hearing on August 25, 2022. On August 19, 2022, the parties submitted a Pre-Hearing Stipulation wherein the Department voluntarily dismissed Count II of the Complaint. The final hearing began on August 25, 2022, and continued to a second day. On October 21, 2022, both sides rested their cases in chief.

The Department called the following witnesses during the hearing: Joaquim Medeiros, Jim Reichle, Linda Berns, Mark Boknecht, Maria Quintana, Glenn Chapter, Ray Wenger, Liron Nicole Stav Roach, and Jason Bamburg. The Department offered twenty-eight (28) exhibits identified as Dept. Ex. 1, 3-14, 18, 20-27, and 29-36, which were admitted into evidence. References to the Department's exhibits will be referred to as [Dept. Ex. X p. X,]. References to the transcript will be referred to as [T. X Ln. X]. References to the Department's Motion for Discretionary Official Recognition filed on August 17, 2022, will be referred to as [Official Recognition – Court Order]. References to the Department's Motion for Discretionary Official Recognition filed on August 19,



2022, will be referred to as [Official Recognition – Sunbiz]. References to the Appendices of the Complaint will be referred to as [Appendix X]. References to facts that have been admitted will be referred to as [Admitted]. References to a specific point in any exhibit in video format will contain a time-stamp reference in the form of [XX:XX]. Exhibit 23a is divided into four subparts. References to a specific point in the exhibit will contain a notation of [Part X], followed by a time-stamp of [XX:XX].

Respondent testified on his own behalf and called Warren Diener, Esq., and Keith Lambdin, Esq., as witnesses. Respondent offered twelve (12) exhibits, which were admitted into evidence. References to Respondent's exhibits will be referred to as [Resp. Ex. X].

#### FINDINGS OF FACT

1. The Chief Financial Officer and the Department are vested with the authority to administer the Florida Insurance Code<sup>1</sup>. The Department is the state agency with the authority to regulate and license public adjusters in the State of Florida pursuant to the Florida Insurance Code. The Department has jurisdiction over Respondent's license and appointments. [Admitted].

2. Respondent is licensed as a public adjuster, license number E138926. [Admitted].

3. At all relevant times, Respondent is the owner of, and is employed by, Indemnity Public Adjusters ("IPA"), a public adjusting firm. [Admitted; T. 205 Ln. 11-12].

4. At all relevant times, Asma Qureshi ("Qureshi") was employed by IPA as a public adjuster.

5. Citizens Property Insurance Corporation ("Citizens") maintains standard business hours Monday through Friday, 8 a. m. through 5 p. m. [T. 158 Ln. 14-15; T. 253 Ln. 18-19].

6. Citizens prefers to schedule home inspections during their standard business hours

---

<sup>1</sup> Chapters 624 through 632, 634, 635, 636, 641, 642, 648, and 651, Florida Statutes, constitute the "Florida Insurance Code." See § 624.01, Fla. Stat.

because Citizens has found “that outside vendors, outside parties are most available” and that “it’s easier to communicate with management, staff, [and] vendors because it’s during business hours and things are open.” [T. 170 Ln. 16-21; T. 253 Ln. 22-24].

#### COUNT I

7. In Count I of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Citizens from having access to necessary information to investigate and respond to a claim, denying reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, failing to exercise due diligence, and demonstrating a lack of fitness and trustworthiness.

8. On September 10, 2017, consumer V. L.’s home was damaged during Hurricane Irma. V. L. retained IPA to assist her in filing a claim with her insurer, Citizens. IPA filed a letter of representation with Citizens on May 9, 2019. [Admitted].

9. Liron Nicole Stav Roach (“Stav Roach”) was the assigned adjuster for Citizens and was supervised by Jason Bamburg (“Bamburg”). [T. 251 Ln. 13-14, 19-20].

10. Stav Roach and Bamburg conducted an initial inspection of V. L.’s property on June 1, 2019. V. L. was represented at the inspection by Qureshi. Qureshi was present at the inspection on behalf of IPA and filmed the inspection. When Stav Roach and Bamburg arrived at the property, the roof was covered with a tarp that needed to be removed for the inspection to be completed. Respondent failed to notify Citizens prior to the inspection that there was a tarp on the roof. [T. 255 Ln. 4-7; T. 270 Ln. 3-4, 17-19; T. 275 Ln. 20-22; Resp. Ex. 4d.; Resp. Ex. 2 p. 21 Ln. 15-19].

11. Had Respondent informed Citizens that there was a tarp on the roof, Citizens could have taken the necessary steps to proceed with the inspection, including obtaining a written

estimate from the vendor about the cost to remove the tarp. Bamburg discussed a request for a quote with Qureshi while the inspection was recorded and after the recording of the inspection was completed. [T. 280 Ln. 2-6; T. 302 Ln. 4-7, 10-17; T. 306 Ln. 12-15; Resp. Ex. 4d. 13:00].

12. Qureshi refused at the inspection on June 1, 2019, to provide an estimate or a quote to remove the tarp, directing Bamburg to speak to V. L.'s attorney. Stav Roach was later provided an exorbitant quote of \$7,500 to remove the tarp. Bamburg and Stav Roach attempted to negotiate a price for the tarp removal with a representative of the tarp removal company. The representative advised that any negotiation of the price needed to be discussed with his office, but he was unable speak with his office because it was a Saturday. Stav Roach was later able to negotiate a price of \$2,000 to remove the tarp, a price that was more in line with the industry standard for the services rendered. [Resp. Ex. 4d. 13:00; T. 270-71 Ln. 25-3; p. 292 Ln. 13, 18, 21-23; Resp. Ex. 2. p. 47 Ln. 10-12].

13. On June 21, 2019, Bamburg emailed Respondent, confirming an inspection on Saturday, June 29, 2019. [Dept. Ex. 3 006].

14. Respondent replied to Bamburg's email, demanding the following information: 1) the names of all parties that would attend the inspection; 2) the areas of the home that would be inspected along with an explanation of the "necessity of inspecting those areas as it relates to the reported claim for damages"; 3) copies of criminal background checks for all of Citizens' experts; 4) the experts' Department-issued license numbers; 5) the four experts' curricula vitae; 6) the experts' liability and errors and omissions insurance; 7) proof of the experts' workers' compensation insurance; and 8) the disclosure of "not only the name of the engineering firm but also any conflicts your expert might have with regards to any other open claim files, consulting or appraisal work with the insurance carrier." [Dept. Ex 4 007-008].

15. Respondent never indicated that the aforementioned demands were made by V. L. [T. 259 Ln. 3-4].

16. Respondent never provided written notice to Citizens that the June 29, 2019, inspection would not occur if he was not provided with the requested documentation. [T. 259 Ln. 17; T. 314-15 Ln. 24-1].

17. Citizens retained an engineer, Medhi Ashraf (“Ashraf”) to conduct the June 29, 2019, roof inspection. [Dept. Ex. 5; T. 276 Ln. 1-6].

18. On Saturday, just hours before the scheduled inspection, Respondent ambushed Citizens and informed them that he would not permit Ashraf or Ashraf’s roofing assistant to get on the roof to complete the inspection unless Respondent received the documentation that he demanded. [T. 314 Ln. 21-22; T. 317 Ln. 9-12].

19. On June 29, 2019, Stav Roach, Bamburg, Ashraf, and Ashraf’s roofing assistant arrived at V. L.’s property to conduct the inspection. They did not have the proof of liability insurance and workers’ compensation insurance. Respondent demanded that Bamburg contact his manager to find out if Citizens would assume liability for Ashraf and his roofing assistant. Bamburg attempted to contact his manager but was unable to reach them because it was Saturday. [Admitted; Dept. Ex. 5 6:00-8:05].

20. Citizens was prepared to conduct an inspection of the property on June 29, 2019, but Respondent refused to allow Citizens to complete its inspection of the roof. [T. 261 Ln. 9-11; T, 279 Ln. 7-9; T. 281 Ln. 19-23; Dept. Ex. 5].

21. On July 11, 2019, Stav Roach emailed Respondent, requesting to reschedule the inspection on July 20, 2019. Respondent replied on July 17, 2019, calling Bamburg “incompetent” and using language that was, according to Stav Roach, “disrespectful, condescending, passive-

aggressive, and borderline libel.” [Dept. Ex. 6 011-015; T. Ln. 263 Ln. 16-17].

22. On July 20, 2019, Respondent, Stav Roach, Bamberg, and Citizens’ contractors from Infinity EMS (“Infinity”) met at V. L.’s property to conduct an inspection of the roof. It was storming when the parties arrived at V. L.’s property. Bamberg and Respondent had a discussion regarding proceeding with the inspection based on Respondent’s demand to film the inspection. The inspection could not proceed because the contractors from Infinity advised that they would not climb onto the roof due to the weather. [T. 302 Ln. 25; T. 303 Ln. 11-13; T. 310 Ln. 17-20; Resp. Ex. 4b. 17:20-17:30].

23. Over the next four months, Stav Roach attempted to schedule another inspection of the property. Respondent never responded to any of Stav Roach’s requests. [T. 265 Ln. 15; T. 284 Ln. 25; T. 285 Ln. 2-6; Resp. Ex. 2 p. 94-95 Ln. 24-9].

24. Citizens denied V. L.’s claim on January 6, 2020, citing V. L.’s failure to allow Citizens to conduct a complete inspection of the property. [Admitted; T. 267 Ln. 19; Dept. Ex 7 016-017].

25. V. L. is a law enforcement officer. Respondent repeatedly asserted that because of V. L.’s profession, the only day of the week she was able to present for an inspection was Saturday. [Dept. Ex. 3 006; T. 267-68 Ln. 23-3].

26. During June and July of 2019, V. L. worked a Tuesday through Saturday schedule. V. L. was off on Sundays and Mondays. Mondays were the best day for her to be present during an inspection, but Respondent never notified V. L. about the possibility of scheduling the inspection on a Monday. [Resp. Ex. 12 p. 4-5 Ln. 25-3; 117-119].

27. Respondent was aggressive with Stav Roach and did not treat her with respect during their interactions. [T. 268 Ln. 12-14].

### COUNT III

28. In Count III of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by denying reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, failing to exercise due diligence, and demonstrating a lack of fitness and trustworthiness.

29. On February 4, 2019, consumer J. L. suffered a fire-related loss to her home. On February 6, 2019, J. L. executed a contract with IPA to represent her in a claim with her insurer, Citizens. [Admitted].

30. Citizens assigned a claims adjuster, Mark Boknecht (“Boknecht”), to J. L.’s claim. [T. 163 Ln. 23].

31. Boknecht contacted J. L.’s counsel about scheduling an inspection of J. L.’s property and was advised to schedule the inspection through Respondent. [T. 164 Ln. 9-14, T. 182 Ln. 18].

32. On May 10, 2019, Boknecht called Respondent to schedule an inspection of J. L.’s residence. Respondent advised Boknecht to send his request via email. [T. 164 Ln. 17-23]. On May 13, 2019, Boknecht emailed Respondent to schedule an inspection of J. L.’s property. [Dept. Ex. 8 p. 020; T. 165 Ln. 17-19].

33. Respondent did not reply to the May 13, 2019, email. [T. 166 Ln. 8].

34. On May 15, 2019, Boknecht called Respondent a second time to try to schedule an inspection. Boknecht requested to schedule the inspection on Monday through Friday at a time between 8:00 a. m. and 5:00 p. m. Respondent demanded that the inspection occur on a Saturday, claiming it was the only day of the week that J. L. was available for inspections. [T. 168 Ln. 1-4, 7-8; T. 181 Ln. 15].



35. On May 16, 2019, Boknecht sent Respondent another email to schedule an inspection of J. L.'s property on "Monday through Friday, from 8am to 5pm". [Dept. Ex. 9 p. 021-023].

36. On May 23, 2019, Boknecht called Respondent to attempt to schedule an inspection of J. L.'s property; however, he was unsuccessful. [T. 170 Ln. 2-5].

37. On June 5, 2019, Boknecht emailed Respondent to schedule an inspection of J. L.'s property. [Dept. Ex. 10 p. 024].

38. On Wednesday, June 19, 2019, J. L. was scheduled to provide a recorded statement to Citizens. [T. 171 Ln. 16]. On June 10, 2019, Boknecht emailed Respondent to attempt to schedule the inspection of J. L.'s property immediately after her recorded statement. [T. 171 Ln. 22; Dept. Ex. 11 p. 025]. Respondent still demanded to schedule the inspection of J. L.'s property on a Saturday. [T. 172 Ln. 17].

39. On June 10, 2019, Respondent emailed the assigned Citizens SIU investigator, Maria Quintana ("Quintana"), regarding the J. L. claim. [Dept. Ex. 12 p. 027-030; T. 155 Ln. 21-25].

40. Respondent's email to Quintana discussed matters unrelated to the J. L. claim, such as Quintana's prior employment. [T. 159 Ln. 8-9]. Furthermore, Respondent brought up insignificant matters, going as far as to try to instruct Quintana on what he believed her job responsibilities were. [T. 161-62 Ln. 8-13, 25-2]. Respondent continued to ask for a Saturday inspection date in the email he sent to Quintana. [Dept. Ex. 12 p. 029].

41. On June 14, 2019, Boknecht emailed Respondent, advising Respondent that Citizens would not agree to a Saturday inspection and again suggesting scheduling the inspection on the same day as J. L.'s recorded statement. [Dept. Ex. 13 p. 032].

42. J. L.'s recorded statement occurred on June 19, 2019. Boknecht was present for the recorded statement; Respondent was not. [T. 172 Ln. 20-23]. J. L. advised that she did not need to be present during the inspection of the property and that the inspection could occur during a weekday. [T. 173 Ln. 9-11]. J. L. further advised that she did not know that Respondent was only offering a Saturday inspection. [T. 173 Ln. 15-16].

43. On June 24, 2019, Boknecht emailed Respondent, attempting to schedule an inspection of J. L.'s property on Monday through Friday, 8 a. m. to 5 p. m. [Dept. Ex. 14 p. 034].

44. On July 9, 2019, Citizens inspected J. L.'s property. Citizens approved J. L.'s claim a week later. [Admitted; T. 176, Ln. 6-7].

45. It took approximately fifty (50) days for Citizens to schedule an inspection of J. L.'s property due to Respondent's refusal to cooperate with scheduling weekday inspection dates. [T. 175 Ln. 22].

46. Citizens would have been able to approve J. L.'s claim earlier but for Respondent's refusal to cooperate with Citizens regarding inspection dates. [T. 176 Ln. 20-22].

47. Respondent, according to Boknecht, was aggressive, condescending, and unprofessional in his correspondence. [T. 177 Ln. 1-2].

48. Respondent testified during the hearing that he never refused to schedule an inspection of J. L.'s property on a date other than Saturday. [T. 427 Ln. 2]. The Court should give no weight to this testimony. Respondent's claim is directly refuted by his email correspondence to Quintana as well as Boknecht's testimony. [Dept. Ex. 12]. Respondent also testified that J. L. had to take work off on a Tuesday to attend her inspection. [T. 428 Ln. 7-14]. This Court should also afford no weight to Respondent's assertion, as it is directly contradicted by Boknecht's testimony that J. L. was not present for the inspection.

#### COUNT IV

49. In Count IV of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Citizens from having reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

50. Rimkus Consulting Group (“Rimkus”) was retained by Citizens to conduct an inspection on a property belonging to consumer G. T. Rimkus assigned Joaquim Medeiros (“Medeiros”), a licensed professional engineer with fifteen years of experience, to conduct the inspection. [T. 42-43 Ln. 25-8; T. 44 Ln. 14-19].

51. Because Medeiros is a senior engineer with Rimkus, Rimkus does not require him to have supervision when conducting inspections. [T. 60 Ln. 2-4].

52. Engineering is a specialized knowledge set which requires knowledge obtained through “academic training, experience and education.” [T. 44 Ln. 1-3].

53. Engineering requires special knowledge and education, such that “[n]o layperson can overrule a professional engineer” and that “no other person not an engineer in the state of Florida can supervise another engineer’s work.” [T. 61 Ln. 1-4].

54. Edward Ingram (“Ingram”) was the adjuster assigned by Citizens for G. T.’s claim.

55. Ingram was not an engineer.

56. Respondent was difficult and aggressive during Medeiros’ attempts to schedule an inspection of G. T.’s home. [T. 46 Ln. 10-12; T. 51 Ln. 22-24].

57. An inspection of the G. T. residence was finally scheduled for June 25, 2019. [T. 52 Ln. 12]. Medeiros arrived at the property wearing a Rimkus company shirt and hat and prepared to conduct his inspection. [T. 73 Ln. 1-3; T. 77 Ln. 13; Dept. Ex 18 1:58-3:10].

58. Respondent demanded Medeiros provide Respondent with proof of liability insurance and workers' compensation insurance. [Dept. Ex. 18]. Medeiros contacted staff at Rimkus and had Rimkus email the requested documentation to Respondent. [T. 59 Ln. 8-11; T. 64 Ln. 16-18; T. 65 Ln. 1-6; Dept. Ex. 18 3:00-3:13, 6:20-7:00; 8:00-9:17]. While Medeiros was attempting to contact Rimkus, Respondent aggressively approached him. [Dept. Ex. 18 7:34-7:52].

59. Despite receiving proof of Medeiros' liability insurance and worker's compensation insurance Respondent advised that he would not permit the inspection to occur because the claims adjuster from Citizen was not present at the scene to supervise Medeiros. [Dept. Ex. 18 14:22-14:30, 17:50, 18:08-18:26, 18:34; T. 65 Ln. 7-11; T. 438 Ln. 5-10].

60. Respondent unilaterally terminated Medeiros' June 25, 2019, inspection of G. T.'s property, despite Medeiros' willingness to perform the inspection. [Dept. Ex. 18 18:28-21:26; T. 61 Ln. 11; T. 69 Ln. 14-15]. Respondent was hostile and combative with Medeiros during the entirety of the attempted inspection on June 25, 2019. [Dept. Ex. 18]. Respondent's termination of the June 25, 2019, inspection unnecessarily delayed the resolution of G. T.'s claim. [T. 61 Ln. 14-15].

61. Respondent testified that he never prevented Citizens or Medeiros from conducting an inspection of the G. T. property and that "[t]he adjuster never showed up." [T. 435 Ln. 13; T. 473 Ln. 3]. The Court should afford this testimony no weight. Respondent's testimony is directly contradicted by Department Exhibit 18, in which Respondent clearly terminates the inspection. [Dept. Ex. 18].

#### COUNT V

62. In Count V of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Tower Hill Insurance Group ("Tower Hill") from having

access to necessary information to investigate and respond to a claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

63. Consumer L. P.'s home reportedly suffered damage from Hurricane Irma. L. P. retained IPA to serve as his public adjuster in his claim with Tower Hill. L. P. was represented by attorney Randy Shochet ("Shochet"). Tower Hill retained the law firm of Bressler, Amery, and Ross, P. C. ("Bressler"). [Admitted; T. 122 Ln. 10-11]. Bressler assigned Linda Berns ("Berns") to L. P.'s claim. [T. 125 Ln. 8].

64. On January 18, 2019, Berns sent Respondent and Shochet an email explaining that Bressler was representing Tower Hill and requesting that an inspection be held during normal business hours. [Admitted; Dept. Ex. 22 p. 054-055]. Respondent replied to Berns' email and demanded that Berns provide "the name of your firm or affiliation, your title, your firm or affiliations address, your firm's affiliation or contact number, [and] a letter or communication from the carrier listing what your authority or role in this claim is." Respondent further stated that "[a]s a matter of professionalism, when sending an email to someone it would be helpful and proactive to provide numbers one through five." [Admitted; Dept. Ex. 22 p. 053].

65. Respondent could have easily obtained most of the requested information from the Florida Bar's website. [T. 126 Ln. 19-25]. However, Berns promptly replied to Respondent's email and provided all of Respondent's requested information, except for the letter or communication from Tower Hill stating Bressler's authority or role in the claim. [Dept. Ex. 22 p. 053].

66. On January 18, 2019, Respondent emailed Berns and thanked her for her quick reply and "most of the information I requested." Respondent did not give any dates for an inspection of consumer L.P.'s property in his email. Instead, Respondent unreasonably requested "a retainer from Tower Hill in this matter or would it be possible for the carrier to provide

something in writing that you are representing them and in what capacity? Once I am provided that, I would be happy discussing the matter with you.” [Admitted T. 122 Ln. 11, Dept. Ex 20 p. 048].

67. Berns’ supervisor, Hope Zelinger (“Zelinger”), emailed Respondent, stating that they would not be providing Respondent with a letter of representation. [Dept. Ex. 21 p. 052]. Zelinger then emailed Respondent stating that, as an officer of the Court, Bressler had been retained to represent Tower Hill. [Admitted; T. 122 Ln. 11; Dept. Ex. 20 p. 048].

68. Respondent replied to Zelinger’s email by calling Zelinger unreasonable and recommending that Zelinger and Berns “engage the FL bar for further clarification of this matter.” [Dept. Ex. 21 p. 051].

69. In the evening of January 18, 2019, Respondent sent Berns an email alleging that Tower Hill, Berns, and Bressler were engaging in “shenanigans” with regards to the L. P. claim. [*Id.*].

70. Respondent is not licensed as an attorney. [T. 362 Ln. 9].

71. Respondent maintained a challenging, aggressive, and confrontational tone in his emails with Berns and Zelinger. [T. 126 Ln. 8-13].

72. On June 10, 2019, Tower Hill took an Examination Under Oath (“EUO”) of Respondent. The EUO was recorded by a videographer. [Dept. Ex. 23].

73. Tower Hill needed Respondent’s EUO to gather information in order to make a determination on the L. P. claim. [T. 127-8 Ln. 22-1; T. 133 Ln. 15-16; T. 143 Ln. 7-10]. There were inconsistencies in the information provided by L. P., and L. P. claimed he “continuously deferred” to Respondent as to the facts and knowledge of the claim. [Dept. Ex. 24 p. 124; T. 142 Ln. 17-23; T. 143 Ln. 6-10].



74. Respondent was provided with a schedule of documents to bring to the EUO. [T. 127 Ln. 12-14]. The schedule included a request for all photographs that Respondent had taken of L. P.'s property. [T. 127 Ln. 17-19]. At the EUO, Respondent failed to provide all the photographs, either in digital or hard copy, that he had taken of L. P.'s property. Respondent also failed to provide an executed version of IPA's contract with L. P. [*Id.*; T. 129 Ln. 11-24; T. 138 Ln. 11-15; T. 153 Ln. 4-10; Dept. Ex. 23 Part 1 6:14-7:20; Dept. Ex. 23 Part 1 14:40-15:05; Dept. Ex. 23 Part 3 :15-1:06].

75. During the EUO, Berns repeatedly asked Respondent to provide any photographs he had. [T. 129 Ln. 11-18].

76. During the EUO, Respondent was provided with an exhibit for examination that was printed double sided. One side contained information germane to the EUO, and the other side had a copy of a driver's license. Respondent was provided with the exhibit but failed to return the exhibit to the court reporter. [Dept Ex. 23 Part 1 2:06].

77. During the EUO, Respondent advised that he had some of the photographs that he had taken on his phone. However, he also claimed that many of the photos he had taken were lost due to a hard drive failure. [Dept. Ex. 23 Part 2 19:40-19:57; Dept. Ex. 23 Part 3 :15-1:06].

78. The EUO was the first time that Respondent provided Tower Hill with any photographs he had taken of the L. P. claim. [T. 129 Ln. 15-18; Dept Ex. 23 Part 1 34:55-35:05; Part 2 :53-1:30].

79. According to Berns, Respondent was confrontational, aggressive, and obstructive during the EUO. He refused to answer specific questions about the claim, was evasive, repeatedly accused Berns of making mistakes during the EUO, and refused to wear a microphone provided by the videographer. [T. 129 Ln. 1-7; T. 131 Ln. 11-21; Dept. Ex. 23 Part 1 13:15-13:45; Dept.

Ex. 23 Part 3 17:37-18:05; Dept. Ex. 23 Part 3 21:15-21:46].

80. Respondent threatened to terminate the EUO when asked a question about his ownership of public adjusting companies. [Dept. Ex. 23 Part 1 24:30-24:45].

81. During a break, the assigned court reporter was so uncomfortable with Respondent's behavior during the EUO that a new court reporter had to be assigned for the remainder of the EUO. [T. 133 Ln. 8-11; Dept. Ex. 23 Part 4 :32-:41].

82. During the break, Berns discovered the exhibit referred to in paragraph 76 was missing. Respondent retained counsel during the break. [T. 145 Ln. 11; Dept. Ex. 23 Part 4]. When the EUO restarted, Respondent claimed Berns accused him of stealing the document. [T. 130 Ln. 14-20; Dept. Ex. 23 Part 4 2:07-2:12].

83. Berns advised that she did not accuse Respondent of stealing the document. However, Respondent cut her off mid-sentence. [Dept. Ex. 23 Part 4 2:07-2:12.]. Berns asked Respondent if he misplaced the document and reiterated that she did not accuse Respondent of stealing the document. [T. 131 Ln. 5; Dept. Ex. 23 Part 4 3:56-4:00, 5:45-5:47].

84. Respondent then unilaterally terminated the EUO. [Dept. Ex. 23 Part 4 6:11-6:46]. Respondent never advised that he was terminating the EUO under advice from counsel.

85. The EUO took approximately two hours and forty-one minutes. Despite that length of time, Berns and Tower Hill were unable to get to the heart of the matter regarding the claim due to Respondent's behavior and failure to provide his photographs. [T. 135 Ln. 22-24].

86. On or about August 8, 2019, Tower Hill denied L. P.'s claim. [Dept. Ex. 24 p. 123-126].

87. The totality of Respondent's behavior during L. P.'s claim process was a contributing factor in the denial of the claim, including Respondent's failure to provide necessary

documentation, his failure to assist in the investigation of the claim, and his termination of the EUO. [T. 128 Ln. 4-5, 8; T. 144 Ln. 19-22].

#### COUNT VI

88. In Count VI of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Lloyds of London from having access to necessary information to investigate and respond to a claim, preventing reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

89. Jim Reichle (“Reichle”) was hired by an insurer to act as an appraiser for a claim involving the named insured, M. K. Respondent was retained as M. K.’s appraiser. [T. 80 Ln 2].

90. An inspection of M. K.’s property was scheduled for August 10, 2018. [T. 80 Ln. 8]. Reichle spoke with the property manager to obtain access to M. K.’s property for the inspection. [T. 80-81 Ln. 23-2]. Respondent was not present for the conversation with the property manager. [T. 81 Ln. 6].

91. The property manager volunteered information about M. K.’s property during his conversation with Reichle. [T. 89 Ln. 15-18]. Reichle did not interrogate or ask the property manager any questions about the claim, Respondent was not present for Reichle’s conversation with the property manager. [T. 81 Ln. 10-13; T. 477 Ln. 19].

92. On August 10, 2018, Reichle and Respondent met to conduct the inspection of M. K.’s property. [T. 81 Ln. 16]. Respondent advised that he would be filming the inspection with video and audio. [T. 81 Ln. 18-23].

93. During the inspection, Reichle and Respondent encountered each other on the second floor of the M. K. property. Reichle then advised Respondent of the information

volunteered by the property manager. [T. 82 Ln. 6, 11-16].

94. Respondent accused Reichle of interviewing the property manager and engaged in a tirade about how Reichle had violated Respondent's right to interview the property manager. [T. 82 Ln. 19-21; T. 82-83 Ln. 24-3].

95. At this point, Respondent aggressively stated to Reichle, "I was in the Marine Corps in Iraq, for 12 years and I love to fight." [T. 85 Ln. 2-5, 7-8]. Conveniently, Respondent started filming after threatening Reichle.

96. Respondent then terminated the inspection because Reichle had interviewed the property manager. Respondent demanded that Reichle vacate the property. [T. 84 Ln. 12-13; T. 86 Ln. 1; T. 95 Ln. 24; Dept. Ex. 25].

97. Although Reichle and Respondent were on the property for thirty minutes, Respondent only recorded two minutes of their interactions. [T. 91 Ln. 5-13; Dept. Ex 25].

98. While off camera, Respondent engaged in physically threatening conduct with Reichle. [T. 86 Ln. 17-18]. Based on Respondent's conduct, Reichle did not want to work with Respondent again and advised his client about having law enforcement or other armed personnel present for any future dealings with Respondent. [T. 94-95 Ln. 22-6].

99. Respondent's termination of the inspection caused unnecessary delay in the resolution of M. K.'s claim. [T. 93 Ln. 8; T. 97 Ln. 10, 14].

100. The M. K. claim was settled after Reichle and Respondent conducted their inspections. [T. 359 Ln. 13-18].

101. Respondent testified that he only terminated the appraisal inspection after Reichle walked away from him. The Court should afford this testimony no weight. Respondent's testimony of how the inspection was terminated is refuted by his own video recording of the event. [Dept.

Ex. 25].

### COUNTS VII AND VIII

102. In Counts VII and VIII of the Complaint, the Department alleged that Respondent failed to include his permanent business address on a contract with consumers A. B. and J. A.

103. On March 12, 2019, IPA, by and through Respondent, executed a contract for adjusting services with A. B. [Dept. Ex. 26 p. 133-34].

104. On or about March 29, 2019, IPA, by and through Respondent executed a contract for adjusting services with J. A. [Dept. Ex. 27 p. 135-36].

105. A. B.'s contract lists IPA's and Respondent's address as P. O. Box 268064, Weston, Florida 33326 ("P. O. Box Address"). [Dept. Ex. 26 p. 133-34].

106. J. A.'s contract also lists IPA's and Respondent's address as the P. O. Box Address. [Dept. Ex. 27 p. 135-36].

107. Respondent never notified the Department that the P. O. Box Address was his business address. Respondent never notified the Department of State, Division of Corporations ("Division of Corporations"), that the P. O. Box Address was IPA's business address.

108. On January 28, 2011, Respondent notified the Department, on the Automated Licensing Information System ("ALIS"), that his home, business, and mailing address was 1025 Briar Ridge Road, Weston, Florida 33327. Since January 28, 2011, Respondent has not notified the Department about any changes in his addresses. [Dept. Ex. 36 p. 165].

109. According to IPA's annual reports filed with the Division of Corporations, IPA's mailing address and principal place of business on March 12, 2019, was 13575 58th Street North, Suite 339, Clearwater, Florida 33760. [Official Recognition – Sunbiz].

110. Respondent testified that, based on his communications with his attorney and the

Department's help desk, he believed using the P. O. Box Address as his permanent business address was not a violation. According to Respondent, neither his attorneys nor the help line advised there was a prohibition on using a P. O. Box as a business address. [T. 350 Ln. 2-5, 6-10]. Respondent failed to identify which attorneys he consulted with or who he spoke with on the Department help line. Accordingly, there is no corroboration for these hearsay statements, and the Court should afford them no weight.

#### COUNT IX

111. In Count IX of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing QBE Specialty Insurance ("QBE") from having access to necessary information to investigate and respond to a claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

112. Respondent was retained by the plaintiff as an expert witness in the case of *Douglas v. QBE Specialty Insurance*, in the Circuit Court in and for Broward County, Florida, case number CACE19013591. [Official Recognition – Court Order; Appendix C].

113. The scope of Respondent's testimony was to provide information "regarding the repairs necessary to return the property to its pre-loss condition." [*Id.*].

114. Respondent emailed defense counsel for QBE a series of insulting and unprofessional emails. [*Id.*]. In the emails, Respondent insulted the counsel's legal ability, threatened to file a complaint to the Florida Bar, and generally disrespected the attorney. [*Id.*]. Respondent copied all of the partners of defense counsel's law firm on the series of emails, as well as the senior leadership of QBE. [*Id.*].

115. Respondent was hostile toward the process server attempting to subpoena him for a deposition, as Respondent's behavior was "very confrontational." Furthermore, Respondent

followed the process server, attempting to video record him and his license plate. [*Id.*].

116. Because of Respondent's hostile behavior toward the process server, Professional Process Services, refused to engage in further attempts to serve process on Respondent. [*Id.*].

117. On September 23, 2021, a deposition had to be terminated due to Respondent's behavior. [Official Recognition – Court Order; Appendix A; Appendix C].

118. On December 1, 2021, the court issued an order compelling Respondent's appearance at a deposition. The Order advised that if Respondent failed to provide answers for the deposition questions, conducted himself in an unprofessional manner, or unilaterally terminated the deposition, he would be removed as an expert witness in the case. [Official Recognition – Court Order; Appendix C].

119. On January 3, 2022, a videotaped deposition of Respondent was scheduled for January 27, 2022. Respondent was on the service list for the deposition notice and, therefore, received notice of the deposition on January 3, 2022. [*Id.*].

120. Respondent was formally served with a subpoena for the videotaped deposition on January 25, 2022. [*Id.*]

121. At the videotaped deposition, Respondent refused to proceed with the deposition if recorded by a videographer, refused to be placed under oath if the deposition was videotaped, claimed he was improperly noticed for the deposition, and accused counsel for QBE of violating the Florida Rules of Civil Procedure. [Official Recognition – Court Order; Appendix B, C].

122. QBE filed a motion to strike Respondent as an expert witness.

123. At a hearing on QBE's motion, Respondent admitted to not being familiar with the Florida Rules of Civil Procedure, despite his prior representations. [Official Recognition – Court Order; Appendix C].

124. On March 16, 2022, the Court issued an Order on Defendant's Motion to Strike Plaintiff's Expert, Scott David Thomas ("Order"), striking Respondent as an expert witness in the case and specifically finding:

Mr. Thomas has: (1) been aggressive and hostile with process servers, court reporters, counsel for Defendant, and Broward Sheriff's Officers; (2) improperly threatened to contact the Florida Bar regarding counsel for Defendant; (3) improperly refused to answer deposition questions; (4) improperly refused to be placed under oath during his second deposition without proper justification; (5) improperly contacted unrelated members of Keller Landsberg, PA and employees of Defendant; (6) sent insulting, disparaging and aggressive e-mails to counsel for Defendant; and (7) violated the December 1, 2021, Court Order by failing to conduct himself in a professional manner.

[*Id.*].

125. Respondent's conduct while designated as an expert witness in *Douglas v. QBE* caused a six-month delay in the proceedings. [*Id.*].

126. Respondent testified that he did not cite to the Florida Rules of Civil Procedure during his deposition scheduled for January 27, 2022. [T. 500 Ln. 16]. This testimony is conclusively refuted by the record. [Appendix B]. Additionally, Respondent testified that he was not struck as an expert witness in *Douglas v. QBE*. This testimony is also contradicted by the record. [Official Recognition – Court Order; Appendix C].

#### COUNT X

127. In Count X of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Citizens from having access to necessary information to investigate and respond to a claim, by preventing Citizens from having reasonable access to a property that was the subject to an insurance claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.



128. Consumers L. M. - Husband and L. M. - Wife (collectively referred to as “L. M.”) filed a claim with Citizens for property damage that occurred during Hurricane Irma. L M. retained Respondent as their appraiser in their claim with Citizens. Jared Holbrook (“Holbrook”) was assigned as Citizen’s appraiser. [Admitted; T. 99 Ln. 8-9].

129. On March 14, 2019, Respondent sent Holbrook an email confirming an inspection for March 22, 2019, at 1:00 p. m. and indicating his expectation that Holbrook be on time for the inspection. [Admitted; T. 99 Ln. 9; Dept. Ex. 30 p. 151].

130. On March 22, 2019, Holbrook arrived at L.M.’s property at 12:45 p. m. Respondent did not arrive at L.M.’s property by 1:00 p. m., the scheduled appointment time. As a result, Holbrook knocked on the door of the property. L. M. - Wife came to the window, and Holbrook introduced himself. Holbrook advised L.M. - Wife that he was at the property to meet Respondent for an appraisal inspection. Holbrook then went back to his truck and continued to wait for Respondent. At 1:10 p. m., Respondent had still not arrived at L.M.’s property. Thus, Holbrook knocked on the front door and asked L.M. - Wife if she had spoken to Respondent. Holbrook asked whether he could start the inspection on the outside of the property and roof, and L.M. - Wife agreed that Holbrook could start the inspection. [Admitted; T. 98 Ln. 20-24, T. 99 Ln. 9]<sup>2</sup>.

131. Respondent arrived at the L. M. property at approximately 1:15 p. m. As soon as Respondent arrived, he berated Holbrook for starting the inspection without him. Holbrook was inspecting L. M.’s roof when Respondent arrived. Respondent ordered Holbrook to get off of L.M.’s roof. Holbrook informed Respondent that L.M. - Wife had given him permission to inspect the property. Respondent was hostile and verbally aggressive to Holbrook and told him that he did not have L.M. - Wife’s permission to begin the inspection. Holbrook suggested that he and

---

<sup>2</sup> Admitted by Respondent subject to a hearsay objection as to L.M. - Wife’s statements to Holbrook

Respondent complete the inspection of L.M.'s property. Respondent refused to allow the inspection to go forward and ordered Holbrook to leave the property. [Admitted<sup>3</sup>; T. 99 Ln. 10-11; T. 104 Ln. 11-13; T. 105 Ln. 4; Dept. Ex. 31].

132. Despite having alleged several times during the March 22, 2019, encounter with Holbrook that he did not have permission from the insured to begin the inspection, Respondent later admitted that Holbrook had permission from L. M. - Wife to begin the inspection. [Admitted; T. 99 Ln. 10-11].

133. A second inspection of the L. M. property was scheduled for May 15, 2019. [Admitted; T. 100 Ln. 24]. At the inspection, Respondent was accusatory and made efforts to prevent a free and open inspection of the property. [T. 105 Ln. 17-19]. The inspection was completed despite Respondent behaving as a nuisance. [T. 105 Ln. 22].

134. Following the inspection, Citizens and L. M. were unable to reach an agreement regarding the value of damages to L. M.'s property. Therefore, on July 8, 2019, in case number 2018-033816-CA, in the Circuit Court in and for Miami-Dade County, Florida, an order was entered appointing Saul Cimbler ("Cimbler") as the umpire in L. M.'s claim. [Admitted; p. 100-101 Ln. 25-1].

135. An umpire panel meeting was scheduled for September 18, 2019. During the meeting, Respondent was brash and acted unprofessionally. [T. 105-106 Ln. 23-5].

136. On September 25, 2019, Respondent emailed L. M.'s attorney, Hunter Patterson. Respondent copied multiple individuals on the email, including the corporate officers of Citizens, the Inspector General of Citizens, the Department, the Office of Insurance Regulation, and Lozano

---

<sup>3</sup> Admitted except as to the following two issues: (1) the Administrative Complaint's assertion that Respondent "berated" Holbrook and that Respondent was "hostile and verbally aggressive" with Holbrook and (2) the assertion that "Respondent refused to allow the inspection to go forward and ordered Holbrook to leave the property." [T. 99 Ln. 24-25].

Insurance Adjusters (“Lozano”). [Dept. Ex. 32 p. 154-63].

137. In this email, Respondent states that he intends to have his personal attorney file a complaint with the United States Department of Justice based on injustices he perceived as occurring during the L. M. claim. Respondent also stated that he would be sending documentation to the Federal Bureau of Investigation. [*Id.*].

138. On September 25, 2019, Respondent sent an email to Cimbler. Respondent again copied the corporate officers of Citizens, the Inspector General of Citizens, the Department, the Office of Insurance Regulation, and Lozano. [Dept. Ex. 33 164-181].

139. Respondent made disparaging remarks in this email, claiming that Cimbler was unethical. [Dept. Ex. 33 p. 164-165].

140. Respondent was warned several times by Cimbler to refrain from including third parties in emails related to the appraisal of the L. M. claim. [Dept. Ex. 33 p. 166].

141. Respondent’s behavior of scheduling and then canceling inspections and generating irrelevant and unnecessary email correspondence unnecessarily delayed the resolution of the L. M. claim. [T. 108-109 Ln. 24-9].

142. Respondent testified during the hearing that he never berated Holbrook during the attempted appraisal inspection. [T. 386 Ln. 7]. Respondent further testified that L. M. - Wife was distraught that Holbrook was at her residence performing his inspection. [T. 383 Ln. 1-4]. The Court should afford this testimony no weight as it is directly contradicted by Respondent’s own video recording of his interactions with Holbrook. [Dept. Ex. 31].

#### CONCLUSIONS OF LAW

143. The Conclusions of Law are divided into five subparts: Subpart one will address Counts I, III, IV, and V; Subpart two will address Counts VII and VIII; Subpart three will discuss

the threshold legal issues related to Counts VI, IX, and X; Subpart four will address Counts VI; IX, and X; and Subpart five will address the Department's conclusion and penalty recommendation.

144. The Department has the burden to prove its allegations by clear and convincing evidence. *See Dep't of Banking and Fin., Div. of Sec. & Investor Prot. v. Osborne Stern and Co.*, 670 So. 2d 932 (Fla. 1996). "Clear and convincing evidence requires that the evidence must be found credible; the facts to which the witnesses testify must be precise and explicit[,] and the witnesses must be lacking in confusion as to the facts in issue." *Smith v. Dept. of Health & Rehab. Servs.*, 522 So. 2d 956, 958 (Fla. 1st DCA 1988), *citing Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

145. As to Counts I, III-VI, IX, and X, the Adjuster's Code of Ethics contained in Rule 69B-220.201(3)(f), *Florida Administrative Code*, requires that public adjusters act with dispatch and due diligence in achieving a proper disposition of a claim.

146. As to Counts I, III-VI, IX, and X, a violation of sections 626.611(1)(g), 626.854(14), (14)(b), or (14)(c), Florida Statutes, or Rule 69B-220.201(3)(f), *Florida Administrative Code*, establishes a violation of section 626.621(2), Florida Statutes.

#### SUBPART 1. DISCUSSION OF THE DEPARTMENT'S CHARGES AS TO COUNTS I, III, IV, AND V OF THE COMPLAINT

##### COUNT I

- a. Sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*

147. The Department has proven by clear and convincing evidence that Respondent violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, as charged in Count I of the Complaint, by preventing Citizens from

having reasonable access to V. L.'s property when Respondent refused to permit Citizens to conduct an inspection of the property on June 29, 2019, and by refusing Citizens access to the property from July 2019 through November 2019.

148. Specifically, the testimony of Bamburg and Stav Roach established that Respondent failed to notify them prior to the June 29, 2019, inspection that he would refuse to permit Ashraf or his contractor to inspect the roof without providing proof of workers' compensation and liability insurance. Respondent, Bamburg, and Stav Roach communicated several times prior to the June 29, 2019, inspection, and yet Respondent waited until the last minute to state he would not permit an inspection without proof of insurance. Thus, Respondent failed to act with dispatch in resolution of the claim.

149. Additionally, by restricting Citizens' access to V. L.'s property to Saturdays only, Respondent prevented Citizens from having reasonable access to V. L.'s property. Respondent claimed that this was due to V. L.'s schedule. However, the record evidence establishes that V. L. was also available for Monday inspections. Respondent refused to inform V. L. of the potential of a Monday inspection, Respondent failed to adequately inquire about V. L.'s schedule, or Respondent knew about V. L.'s schedule and misrepresented that information to Citizens. All three options demonstrate Respondent's lack of dispatch and due diligence in resolving V. L.'s claim.

150. Respondent maintains that he did not obstruct reasonable access to V. L.'s property because the property was available for inspection on June 1, 2019, and July 20, 2019. This argument ignores the fact that (1) Respondent failed to notify Citizens about the tarp covering the roof prior to the June 1, 2019, inspection and (2) the July 20, 2019, inspection could not have occurred because Infinity refused to go on the roof due to the weather.

151. While Respondent maintains that his demand for proof of workers' compensation

and liability insurance was a reasonable precondition, there is no statutory authority that permits an adjuster to place conditions on an insurer's access to property that is the subject of an insurance claim.

152. Assuming, *arguendo*, that Respondent's precondition of proof of worker's compensation and liability insurance was reasonable, Respondent still denied Citizens reasonable access to the property for the four months following July 20, 2019, when he failed to respond to Stav Roach's multiple requests for additional inspection dates. The denial of V. L.'s claim is directly attributable to Respondent's failure to cooperate with Citizens' right to inspect the property. [T. 265 Ln. 15; T. 284 Ln. 25; T. 285 Ln. 2-6; Resp. Ex. 2 p. 94-95 Ln. 24-9].

b. Section 626.611(1)(g), Florida Statutes

153. The Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), Florida Statutes, as charged in Count I of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during the V. L. claim.

154. Chapter 626, Florida Statutes, does not define the term "fitness." When terms are not defined in a statute, the "plain and ordinary meaning of those terms applies." *Nat'l Fed'n of Ret. Persons v. Dep't of Ins.*, 553 So. 2d 1289, 1290 (Fla. 1st DCA 1989). In *Norkin vs. DFS*, 16-1996, 2016 WL 4584611, at ¶ 40 (Fla. DOAH Dec. 5, 2016; DFS January 18, 2017), the court found that the Webster's Dictionary definition of "fit" was applicable in the licensure context and meant "proper or acceptable," "morally or socially correct," and "suitable for a specified purpose."

155. Furthermore, the court has previously found a disregard for regulatory authority and a failure to conform with basic ethical principles are demonstrative of a licensee's lack of fitness and trustworthiness. *Dep't of Fin. Serv. v. Cephas*, 03-0798PL, 2003 WL 21510765, at ¶

45 (Fla. DOAH June 1, 2003; DFS July 25, 2003).

156. The Adjuster's Code of Ethics, as contained in Rule 69B-220.201, *Florida Administrative Code*, constitutes the basic ethical principles for all adjusters licensed under the Florida Insurance Code.

157. Accordingly, based on *Norkin* and *Cephas*, this Court should find that Respondent's conduct violated section 626.611(1)(g), Florida Statutes, because Respondent did not act morally or socially correct and because his conduct failed to conform with basic ethical principles.

158. The Department has proven Respondent's lack of fitness and trustworthiness in Count I because the record evidence establishes that Respondent failed to adhere to basic ethical principles and engaged in harassing, unprofessional, and disparaging treatment of Bamburg and Stav Roach. Furthermore, Respondent misrepresented V. L.'s schedule to Citizens, which demonstrates a lack of fitness and trustworthiness.

### COUNT III

- a. Sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*

159. The Department has proven by clear and convincing evidence that Respondent violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, as charged in Count III of the Complaint, by obstructing and preventing Citizens from having reasonable access to J. L.'s property.

160. Despite Citizens' multiple attempts (three telephone calls and six emails), Respondent refused to schedule an inspection of J. L.'s property for the fifty days between May 10, 2019, and July 9, 2019.

161. Respondent maintained that J. L. would have to present during the inspection and

that she was only available on Saturdays. However, Respondent's representations were contradicted by J. L.'s testimony in her recorded statement, wherein she testified that she did not need to be present for the inspection and had no knowledge of Respondent's demand that the inspection take place on a Saturday.

162. The evidence clearly establishes that an inspection of J. L.'s property could have taken place on any day, Monday through Friday, between May 10, 2019, and July 9, 2019. Respondent's actions were the sole reason that Citizens could not timely inspect J. L.'s property. Accordingly, Respondent failed to resolve the claim with proper dispatch. Respondent intentionally misrepresented J. L.'s availability for inspection to interfere with Citizens' reasonable access to J. L.'s property.

b. Section 626.611(1)(g), Florida Statutes<sup>4</sup>

163. The Department has proven by clear and convincing evidence that Respondent violated section 626.611(1)(g), Florida Statutes, as charged in Count III of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during the J. L. claim.

164. Respondent's failure to adhere to basic ethical principles by violating the Adjuster's Code of Ethics, Respondent's misrepresentations to Citizens about J. L.'s availability, Respondent's conduct toward Citizens' employees during the J. L. claim, including using aggressive, condescending, and unprofessional correspondence with Boknecht, and his unnecessary and harassing email correspondence with Quintana all demonstrate Respondent's lack of fitness and trustworthiness.

COUNT IV

a. Sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f),

---

<sup>4</sup> The Department incorporates the arguments from paragraphs 154-156, *supra* as if fully argued herein.



*Florida Administrative Code*

165. The Department has proven by clear and convincing evidence that Respondent has violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, as charged in Count IV of the Complaint, by obstructing and preventing Citizens from having reasonable access to G. T.'s property.

166. Respondent's termination of Medeiros' attempted inspection of G. T.'s property was unreasonable and violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B- 220.201(3)(f), *Florida Administrative Code*.

167. Medeiros is a licensed professional engineer with over 15 years of experience. Engineering is a specialized field of study, requiring specialized knowledge. Medeiros further testified that because of the specialized knowledge required to be an engineer, a lay person could not adequately "supervise" an engineer.

168. Respondent testified that he never provided Ingram with written notice that the inspection would not proceed on June 25, 2019, if Ingram was not present. [T. 470 Ln. 4; T. 471 Ln. 3].

169. The evidence clearly establishes that Medeiros arrived at G. T.'s property prepared to conduct his inspection. Medeiros provided Respondent with his requested worker's compensation and liability insurance, but Respondent refused to allow Medeiros to complete his inspection. [T. 438 Ln. 5-10].

170. Respondent's demand that Ingram, a non-engineer, supervise Medeiros, an engineer, was unreasonable and prevented Citizens from having necessary access to the property.

171. The evidence clearly establishes that Medeiros' inspection of G. T.'s property on June 25, 2019, could have occurred but for Respondent's unreasonable unilateral termination of

the inspection. Respondent's termination of Medeiros' inspection unnecessarily delayed the resolution of G. T.'s claim and thus demonstrates Respondent's failure to act with proper dispatch during the claim.

b. Section 626.611(1)(g), Florida Statutes<sup>5</sup>

172. The Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), Florida Statutes, as charged in Count IV of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during the G. T. claim.

173. Respondent's failure to adhere to basic ethical principles by violating the Adjuster's Code of Ethics and Respondent's behavior during his interactions with Mr. Medeiros, including being aggressive and difficult during attempts to schedule the inspection and harassing Medeiros by engaging in hostile and aggressive behavior during the June 25, 2019, attempted inspection, all demonstrated a lack of fitness and trustworthiness.

COUNT V

a. Sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*

174. The Department has proven by clear and convincing evidence that Respondent violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, as charged in Count V of the Complaint, by preventing and obstructing Tower Hill from having reasonable access to necessary information to investigate and respond to the L. P. claim.

175. Tower Hill requested that Respondent provide an EUO and all photographs of the L. P. property to the EUO. Respondent failed to provide Tower Hill with all of the photographs he

---

<sup>5</sup> The Department incorporates the arguments from paragraphs 154-156, *supra* as if fully argued herein.

had taken of L. P.'s property prior to and during the EUO. Respondent also failed to provide a copy of his executed contract with L. P.

176. Berns' testimony, as corroborated by the video of the EUO [Dept. Ex. 23a], shows Respondent behaving combatively, refusing to answer basic questions about the claim, and improperly and unilaterally terminating the EUO.

177. Respondent clearly failed to act with dispatch by delaying Tower Hill's investigation of L. P.'s claim through improper termination of the EUO. Respondent's failure to provide Tower Hill with his photographs of the L. P. residence, both prior to and during the EUO, demonstrated a lack of due diligence in handling L. P.'s claim.

b. Section 626.611(1)(g), Florida Statutes<sup>6</sup>

178. The Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), Florida Statutes, as charged in Count V of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during his involvement in the L. P. claim.

179. Respondent demonstrated his lack of fitness and trustworthiness during the L. P. claim by using disparaging language in emails he sent to Berns and Zelinger, by arriving at the EUO unprepared, by behaving combatively with Berns during the EUO, by refusing to cooperate with the videographer, by refusing to return the provided exhibit during the EUO, and by behaving in such a poor manner that a new court reporter was needed to complete the EUO.

SUBPART 2. DISCUSSION OF THE DEPARTMENT'S CHARGES AS TO COUNTS VII  
AND VIII OF THE COMPLAINT

180. The Department has proven by clear and convincing evidence that Respondent violated section 626.8796(2), Florida Statutes, as charged in Counts VII and VIII of the Complaint,

---

<sup>6</sup> The Department incorporates the arguments from paragraphs 154-156, *supra* as if fully argued herein.

by listing the P. O. Box Address as his business address in the A. B. and J. A. contracts.

181. Respondent's home, business, and mailing address as represented to the Department on March 12, 2019, and March 22, 2019, was 1025 Briar Ridge Road, Weston, Florida 33327.

182. IPA's principal place of business and mailing address as represented the Division of Corporations on March 12, 2019, and March 22, 2019, was 13575 58th Street North, Suite 339, Clearwater, Florida 33760.

183. The P. O. Box Address listed on the A. B. and J. A. contracts conflict with Respondent's business address as represented by Respondent to the Department in his ALIS profile. The P. O. Box Address also conflicts with the business address for IPA as represented by Respondent to the Division of Corporations.

184. Regardless of whether Respondent was advised that he could use the P. O. Box Address as his business address, Respondent failed to register the P. O. Box Address as his business address or as IPA's business address with the Department or the Division of Corporations.

185. Respondent violated section 626.8796(2), Florida Statutes, by using an address on the A. B. and J. A. contracts that he did not register with the Department or the Division of Corporations.

186. The conflicts in the addresses used in A. B. and J. A. contracts, the information in Respondent's ALIS profile, and IPA's annual report with the Division of Corporations prove Respondent violated section 626.8796(2), Florida Statutes.

### SUBPART 3. DISCUSSION OF THE THRESHOLD ISSUES RELATED TO COUNTS VI, IX, AND X OF THE COMPLAINT

187. Counts VI, IX, and X require analysis of two threshold issues: 1) as to Counts VI and X, whether appraising is conduct that falls within the scope of the definition of a public adjuster

in section 626.854(1), Florida Statutes, and 2) as to all three counts, whether the Department has the authority to discipline a licensee for conduct occurring outside the scope of their licensure.

APPRAISAL IS CONDUCT THAT FALLS WITHIN THE SCOPE OF A PUBLIC  
ADJUSTER'S LICENSE

188. The term "Public Adjuster" is defined in section 626.854(1), Florida Statutes.

A "public adjuster" is any person, except a duly licensed attorney at law as exempted under s. 626.860, who, for money, commission, or any other thing of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract or who advertises for employment as an adjuster of such claims. The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of a public adjuster, an insured, or a third-party claimant.

189. Section 626.854(1), Florida Statutes, sets out several tests to determine whether an individual is acting as a public adjuster. There are two tests germane to the issue at bar.

190. Under the first test, individuals act as a public adjuster when they: directly or indirectly act or aid in the negotiation for or in effecting a settlement of a claim or loss damage covered by an insurance contract, on behalf of an insured, for money, commission, or any other thing of value.

191. Under the second test, individuals act as a public adjuster when they: directly or indirectly investigate a claim, on behalf of a public adjuster, insured, or third-party claimant, for money, commission, or any other thing of value.

192. Reichle testified:

An appraiser is chosen by either the insured or the carrier, and they are designed to - - or the position is designed to facilitate the settlement of the claim. They act on behalf of either the insured or of the carrier. And they review the loss and try and come up with

what they feel is a fair price and scope of damages, report to each other, and the two appraisers supposedly try to work it out.

[T. 79; Ln. 9-17].

193. The Court heard the testimony of Holbrook, Reichle, and Respondent, who all testified that inspections of the subject property are part of their work as appraisers.

194. The inspections that appraisers conduct involve testing physical features of the subject property. [T. 114 Ln. 6-14].

195. Appraisers make estimates of the damage to the subject property and ultimately write a report of their findings. [T. 364-65 Ln. 13-23; T. 366 Ln. 2-8].

196. Respondent testified that appraisers are compensated for their work and can be hired by public adjusters. [T. 372 Ln. 5-6, 21-22].

197. Reichle further testified that an appraiser's work is related to the resolution of an insurance claim. [T. 79 Ln. 23]. Respondent testified consistently with Reichle on this point. [T. 357-359 Ln. 6-18].

198. Determining the scope of a claim necessarily requires an investigation of the claim.

199. Holbrook's, Reichle's, and Respondent's testimony clearly establishes that appraisers are individuals who directly act or investigate a claim, on behalf of an insured or public adjuster, to affect a settlement of a claim for loss or damage covered by an insurance contract, in return for money. Holbrook's, Reichle's, and Respondent's testimony establishes that the conduct of appraising satisfies the legal criteria for public adjusting as identified in paragraphs 190-91, *supra*.

200. Section 627.70152, Florida Statutes, which concerns the procedure for suits arising under a property insurance contract, provides additional support that appraisers are involved in the settlement of claims. Section 627.70152(4)(b), which outlines the insurer's duties, provides:

If an insurer is responding to a notice provided to the insurer alleging an act or omission by the insurer other than a denial of coverage, the insurer must respond by **making a settlement offer or requiring the claimant to participate in appraisal or another method of alternative dispute resolution.** The time limits provided in s. 95.11 are tolled as long as appraisal or other alternative dispute resolution is ongoing if such time limits expire during the appraisal process or dispute resolution process. **If the appraisal or alternative dispute resolution has not been concluded within 90 days after the expiration of the 10-day notice of intent to initiate litigation specified in subsection (3), the claimant or claimant’s attorney may immediately file suit without providing the insurer additional notice.**

(Emphasis added).

201. Notwithstanding Respondent’s assertion that he was retained as an “appraiser” in Counts VI and X, the testimony elicited at hearing clearly establishes that Respondent’s specific work on those claims involved conducting an inspection or investigation of the claim and that his work involved effecting a potential settlement or resolution of the claim.

202. Because the work of an appraiser falls within the statutory definition of “public adjuster,” an appraiser is subject to the requirements of the Florida Insurance Code. This would include the Adjuster’s Code of Ethics. Accordingly, Respondent is subject to discipline for misconduct occurring during Respondent’s work as an appraiser.

THE DEPARTMENT IS PERMITTED TO PROSECUTE A LICENSEE FOR CONDUCT  
OCCURRING OUTSIDE THE SCOPE OF LICENSURE

203. Licensees are always subject to the provisions of the Florida Insurance Code and are always obligated to demonstrate their fitness and trustworthiness to maintain their license to engage in the business of insurance. “Sections 626.611 and 626.621 are part of a legislative scheme for determining whether applicants are qualified and remain qualified and fit to be insurance agents. This scheme is designed to aid the health, safety and welfare of the general public.” *Brewer v. Ins. Comm’r and Treasurer*, 392 So. 2d 593, 596 (1st DCA 1981).

204. In fact, courts have consistently held that an insurance agent licensee may demonstrate a lack of fitness or trustworthiness to engage in the business of insurance by acts unrelated to the insurance business. See *Dep't of Fin. Servs. v. Carll and Crain*, 06-2096 and 06-2097 (DOAH 2007), ¶65, (comparing *Paisley v. Dep't of Ins.*, 526 So. 2d 167 (Fla. 1st DCA 1988) and *Natelson v. Dep't of Ins.*, 454 So. 2d 31, 32 (Fla. 1st DCA 1984) (lack of fitness demonstrated by felony convictions unrelated to insurance) with *Anna Michelle Mack v. Dep't of Fin. Servs.*, 914 So. 2d 986, 988-989 (Fla. 1st DCA 2005), and *Ganter v. Dep't of Insurance*, 620 So. 2d 202 (Fla. 1st DCA 1993) (sales of auto club memberships are ancillary products)); see also *Dep't of Fin. Servs. v. Eberhardt*, 09-3088PL, 09-3089PL 2010 WL 1737091 at ¶ 74 (DOAH April 27, 2010; July 16, 2010).

205. Based on the holdings of *Natelson* and *Paisley*, the Department has the authority to discipline a licensee for conduct occurring outside the scope of licensure.

206. However, further support for the contention that a licensee can be held liable for conduct occurring outside of the scope of licensure can be found in the plain language of section 626.611, Florida Statutes.

207. Section 626.611(1), Florida Statutes, provide grounds for the compulsory suspension or revocation of an agent's license, and provides, in relevant part:

The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, **licensee**, or appointee any one or more of the following applicable grounds exist:

(Emphasis added).



208. Section 626.611(1), Florida Statutes, refers to the listed group of individuals subject to its provisions generally as “applicant” and “licensee.”

209. Because the end of subsection one (1) uses the word “licensee,” the section applies to all licensees regardless of whether they are acting under the scope of their particular licenses.

210. Sections 626.611(1) (a)-(d), (g)-(j), (m), and (n), Florida Statutes, apply generally as to all licensees. In contrast, subsection 626.611(1)(f), Florida Statutes, applies only to adjusters or agents licensed and appointed to adjust claims, and subsection 626.611(1)(l), Florida Statutes, only applies to general lines agents, life agents, and health agents. Accordingly, any argument that section 626.611(1)(g), Florida Statutes, does not apply to Respondent as a licensee is without merit.

211. Even if this Court finds that the conduct of appraising does not fall within the definition of public adjusting, Respondent must still behave in a manner that demonstrates his fitness and trustworthiness to engage in the business of insurance while acting as an appraiser.

212. Because Respondent is always required to demonstrate fitness and trustworthiness to engage in the business of insurance, Respondent is subject to discipline under the Florida Insurance Code for his conduct while acting as an appraiser and expert witness.

#### SUBPART 4. DISCUSSION OF THE DEPARTMENT’S CHARGES AS TO COUNTS VI, IX, AND X OF THE COMPLAINT

##### COUNT VI

- a. Sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*

213. The Department has proven by clear and convincing evidence that Respondent has violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, as charged in Count VI of the Complaint, by obstructing and

preventing Lloyds of London from having reasonable access to M. K.'s property.

214. The Department has proven this allegation by establishing that Respondent unilaterally terminated the attempted inspection of M. K.'s property by the appraiser, Reichle. The record evidence established that Respondent unreasonably terminated the appraisal inspection based on his unfounded conclusion that Reichle had engaged in an inappropriate interview with the property manager of the M. K. property.

215. Reichle testified that he never interviewed the property manager. Respondent was not present for any conversation between Reichle and the property manager and, therefore, Respondent had no legitimate basis to terminate the appraisal inspection.

216. The evidence clearly establishes that the appraisal inspection of the M. K. property would have occurred but for Respondent's unreasonable unilateral termination of the inspection. Respondent's conduct unnecessarily delayed the resolution of M. K.'s claim.

b. Section 626.611(1)(g), Florida Statutes<sup>7</sup>

217. The Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), Florida Statutes, as charged in Count VI of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during his involvement in the M. K. claim.

218. Respondent's lack of fitness and trustworthiness was demonstrated in Count VI of the Complaint based on Respondent's failure to adhere to basic ethical principles by violating the Adjuster's Code of Ethics and by Respondent's threatening and aggressive treatment of Reichle during their inspection of the M. K. property.

COUNT IX

a. Sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f),

---

<sup>7</sup> The Department incorporates the arguments from paragraphs 154-156, *supra* as if fully argued herein.

*Florida Administrative Code*

219. The Department has proven by clear and convincing evidence that Respondent has violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, as charged in Count IX of the Complaint, by obstructing and preventing QBE from having reasonable access to necessary information to respond to claim.

220. The Department has proven this allegation based on the Order issued in *Douglas vs. QBE*. The Order clearly demonstrates that Respondent refused to cooperate during two depositions that were scheduled in the matter. [Appendix A, B]. The Plaintiff listed Respondent as an expert witness, and defense counsel attempted to depose Respondent on two occasions. Respondent's conduct during the two depositions was so outrageous that he was stricken by the court as an expert witness.

221. The evidence clearly establishes that the totality of Respondent's behavior during his involvement in *Douglas v. QBE* led to a six-month delay in the proceedings and proves his failure to act with dispatch.

b. Section 626.611(1)(g), Florida Statutes<sup>8</sup>

222. The Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), Florida Statutes, as charged in Count IX of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during his involvement in *Douglas v. QBE*.

223. Respondent's behavior as an expert witness in *Douglas v. QBE* is directly related to his fitness as a public adjuster. Public adjusters are regularly subpoenaed to provide testimony in hearings as part of their responsibilities within a claim. [T. 487 Ln. 12, 15]. Respondent's

---

<sup>8</sup> The Department incorporates the arguments from paragraphs 154-156, *supra* as if fully argued herein.

conduct in *Douglas v. QBE* shows flagrant disregard for the obligation to cooperate with the court process.

224. The Department has proven Respondent's lack of fitness and trustworthiness in Count IX of the Complaint based on the following: Respondent's aggressive and hostile behavior toward process servers, court reporters, and counsel for QBE; his refusal to be placed under oath during his deposition; his hostile and disparaging emails to counsel for QBE; his correspondence with individuals unrelated to the litigation in *Douglas v. QBE*; and his failure to conduct himself with professionalism.

#### COUNT X

- a. Sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*

225. The Department has proven by clear and convincing evidence that Respondent has violated sections 626.854(14), (14)(b), and (14)(c), Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, as charged in Count X of the Complaint, by obstructing and preventing Citizens from having reasonable access to L. M.'s property.

226. The Department has proven this allegation by establishing that Respondent unilaterally terminated appraiser Holbrook's attempted inspection of L. M.'s property.

227. The evidence established that Respondent unreasonably terminated the appraisal inspection based on his unfounded assertion that Holbrook did not have permission from L. M. - Wife to begin his inspection. Respondent subsequently admitted that Holbrook did in fact have permission to begin the inspection. [Admitted, T. 99 Ln. 9].

228. The evidence clearly establishes that the appraisal inspection of the L. M. property could have occurred but for Respondent's unreasonable unilateral termination of the inspection.

229. During the L. M. claim, Respondent engaged in a course of communication which

delayed a timely resolution of the claim.

230. Respondent's conduct in terminating the appraisal inspection and his email correspondence unnecessarily delayed a resolution of L. M.'s claim.

b. Section 626.611(1)(g), Florida Statutes<sup>9</sup>

231. The Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), Florida Statutes, as charged in Count X of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during his involvement in the L. M. claim.

232. The Department has proven Respondent's lack of fitness and trustworthiness in Count X of the Complaint based on the following: Respondent's failure to adhere to basic ethical principles by violating the Adjuster's Code of Ethics; Respondent's unjustified, unilateral termination of the appraisal inspection; Respondent's conduct during the May 15, 2019, inspection; Respondent's behavior during the September 18, 2019, umpire meeting; and Respondent's disparaging and unprofessional emails with Holbrook, Cimbler, Lozano, and Citizens.

233. Prior to the hearing, Respondent alleged that Holbrook did not have permission from L. M. - Wife to begin inspection of L. M.'s property. During the hearing, Respondent later admitted that Holbrook had permission from L. M. – Wife. [Admitted, T. 98 Ln. 20-24, T. 99 Ln. 9]. The Department argues that this constituted a misrepresentation by Respondent, and it is evidence of his lack of fitness and trustworthiness.

234. The Department notes the fact that Respondent persisted in sending emails copying multiple people unrelated to the L. M. claim, despite repeated requests from Cimbler to refrain

---

<sup>9</sup> The Department incorporates the arguments from paragraphs 154-156, *supra* as if fully argued herein.

from engaging in this harassing behavior, is additional proof of Respondent's lack of fitness and trustworthiness.

#### SUBPART 5. CONCLUSION AND PENALTY RECOMMENDATION

235. Respondent testified at hearing that “[a] public adjuster advocates on the part of the homeowner – advocates on the part of a homeowner, sir for an insurance company. The job of a public adjuster is not to be evasive or not to be disruptive or not to be contentious. The job of a public adjuster is to assist the insured with their claim, but also make sure that you follow Florida Statutes, make sure that you look out for the insured's best interest.” [T. 339-40 Ln. 19-2].

236. Despite Respondent's testimony that the role of a public adjuster is not to be disruptive or contentious, the record is filled with numerous examples of Respondent disrupting and delaying the claim resolution process. Respondent's disruptive behavior extended to the hearing in the instant case. The record has numerous examples where Respondent was evasive or disruptive to the proceedings, including refusing to answer basic questions. [T. 454-56, 460, 462-77, 497-98, 503, 506, 512, 514].

237. The record evidence shows that Respondent engages in a course of conduct during claims wherein he obstructs the insurer's participation in the claims process, reasonable access to the subject properties, and information related to the claims. This is proven by his repeated demands that claim-related work occur only on Saturdays instead of regular business hours as demonstrated in Counts I, III, and IX. The record evidence established that conducting activities such as inspections on Saturdays prevents the insurers from being able to contact and work with contractors that may be necessary for an inspection.

238. The detrimental effect of Saturday inspections was demonstrated in Count I of the Complaint. Stav Roach testified how she was unable to negotiate for a reasonable price for tarp

removal because the vendor's office was closed. This detrimental effect was further demonstrated during the June 29, 2019, inspection, when Respondent demanded Bamburg call his supervisor to discuss Citizens assuming liability for Ashraf and his vendor.

239. Respondent's demand that meetings necessary for the resolution or settlement of claims occur on Saturday is done for the purpose of interfering with the insurer's ability to respond to the claim.

240. Respondent does not limit his tactic of scheduling events on Saturday to inspections. In *Douglas v. QBE*, Respondent attempted to unilaterally reschedule his deposition for a Saturday. [Appendix B].

241. Respondent's efforts to obstruct insurers' participation in the claims process is further demonstrated by his unreasonable and unilateral termination of inspections in Counts I, IV, VI, and X and his termination of depositions and EUOs in Counts V and IX.

242. Respondent has also demonstrated a course of conduct where he engages in harassment of insurers' employees and contractors. This Court heard testimony from Stav Roach, Quintana, Medeiros, Berns, Reichle, and Holbrook stating how Respondent harassed each of them in their time working with Respondent. Respondent's repeated hostile behavior is designed to make the process inhospitable to the insurer in the hopes of securing a better claim for his client.

243. Respondent's harassment is not limited to his personal interactions with employees and contractors of insurers. Respondent also regularly uses disparaging and unprofessional language in his emails with insurers and opposing parties. [Dept. Exs. 4, 6, 12, 21, 27, 29, 30, 32, and 33; Appendix C; Official Recognition – Court Order]. Respondent also regularly includes people in his correspondences who have no relation to the matter being discussed. [*Id.*]. This

behavior is done with the sole purpose of harassment. Respondent even engaged in this course of conduct with the Department when he was under investigation by Glenn Chapter. [T. 211-12].

244. The evidence has shown that Respondent repeatedly makes unfounded accusations of a lack of ethics or dishonesty of any opposing party in his claims.

245. Respondent persists in using disparaging and defamatory language in his interactions with insurers and opposing appraisers, even after receiving two prior letters of guidance from the Department. [Dept. Ex. 34, 35]. Respondent's continued demonstration of a lack of regard for the Department's regulatory authority demonstrates he is not fit to maintain licensure as a public adjuster.

246. Respondent demonstrates aggressive and abrasive behavior in his personal interactions with insurer's employees and contractors as demonstrated in Counts I, IV, V, IV, IX, and X. [Dept. Ex. 18, 23a, 25, 31].

247. On two separate occasions, Respondent's hostile behavior caused court reporters to leave depositions or EUO's. [Dept. Ex. 23a; Appendix A].

248. Finally, Respondent engaged in misleading and deceptive behavior in Counts I, III, and X. Respondent made knowing misrepresentations regarding his clients' availability for inspections and a misrepresentation concerning L. M. – Wife providing consent for Holbrook to inspect the L. M. property.

249. Respondent's ability to achieve a favorable outcome for his clients has no bearing on whether a violation of the Florida Insurance Code has occurred. The Florida Insurance Code is as concerned with protecting the citizens of Florida by ensuring that they have access to successful licensees as it is with ensuring that its licensees can follow basic principles of ethics and fairness.



250. The penalty guidelines for violations of the Florida Insurance Code are found in chapter 69B-231, *Florida Administrative Code*.

251. According to Rule 69B-231.080(7), *Florida Administrative Code*, a violation of section 626.611(1)(g), Florida Statutes, is punishable by a 6-month suspension, pursuant to Rule 69B-231.090(2), *Florida Administrative Code*. A violation of section 626.621(2), Florida Statutes, is punishable by a 3-month suspension, pursuant to Rule 69B-231.120, *Florida Administrative Code*. A willful violation of sections 626.854(14), (14)(b), or (14)(c), Florida Statutes, and section 626.8796, Florida Statutes, and Rule 69B-220.201(3)(f), *Florida Administrative Code*, is punishable by a six-month suspension, and a nonwillful violation is punishable by a three-month suspension. Additionally, pursuant to section 626.8698(6), Florida Statutes, this Court has the authority to impose a \$5,000 fine for each of Respondent's violations of Rule 69B-220.201, *Florida Administrative Code*.

252. Respondent's failure to place his permanent business address on his contracts as alleged in Counts VII and VIII is a willful violation of the Florida Insurance Code.

253. Pursuant to Rule 69B-231.040, *Florida Administrative Code*, in determining the correct recommended penalty in the instant case, this Court is required to determine the highest penalty of the proven statutes in each count to determine the "penalty per count." After adding the penalty per count, the Court will determine the "total penalty." Pursuant to Rule 69B-231.040, *Florida Administrative Code*, this Court is then required to adjust the total penalty for any aggravating or mitigating factors to determine the "final penalty."

254. The penalty per count for the proven allegations in the Complaint is equal to six months per count, for a total penalty of 54 months.

255. The Department asserts that the following aggravating factors, pursuant to Rule 69B-231.160(1), *Florida Administrative Code*, are applicable to Counts I, III, IV, V, VI, IX, and X in the instant case: (a) willfulness of licensee's conduct, (k) existence of secondary violation in counts, and (l) prior warnings by the Department. The Department would argue that no mitigating factors are applicable in the instant case. Even if this Court finds mitigating factors, then they are substantially outweighed by the aggravating factors.

256. Because the total penalty in this case exceeds a period of suspension of more than twenty-four months, the appropriate penalty to impose against Respondent is revocation of licensure pursuant to Rule 69B-231.040(3), *Florida Administrative Code*.

257. Section 120.695, Florida Statutes, does not apply in the instant case because its applicability is limited to an issuance of a notice of noncompliance for a violation of an agency's rules. The plain language of section 120.695, Florida Statutes, makes it inapplicable to a violation of statute. As argued previously, all of Respondent's violations of the rule-based Adjuster's Code of Ethics are violations of section 626.611(1), Florida Statutes.

258. Section 626.611(1), Florida Statutes, provides, in relevant part:

**The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist...**

(Emphasis added).

259. The plain language of section 626.611(1), Florida Statutes, shows a clear legislative intent that violations of section 626.611, Florida Statutes, must be disciplined with a more severe sanction than an issuance of a notice of noncompliance.

260. Further support for the inapplicability Respondent's arguments concerning section 120.695, Florida Statutes, can be found in section 626.8698(6), Florida Statutes.

261. Section 626.8698(6), Florida Statutes, provides that "[t]he department may deny, suspend, or revoke the license of a public adjuster or public adjuster apprentice, and administer a fine not to exceed \$5,000 per act, for any of the following: [v]iolating any ethical rule of the department."

262. By permitting the Department to impose suspension, revocation, or a fine for a violation of the Adjusters Code of Ethics, the Legislature has evidenced a clear directive that violations of the Adjuster's Code of Ethics cannot be minor violations for which the issuance of a notice of noncompliance would be appropriate.

263. Assuming *arguendo* that the Department failed to comply with section 120.695, Florida Statutes, the Department's failure would only limit the discipline that can be imposed and would not prohibit a finding that Respondent violated the Florida Insurance Code.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

CONCLUSION

264. Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a Final Order be entered revoking Respondent's license as a public adjuster.

RESPECTFULLY SUBMITTED, this 16th day of December 2022

/s/ Marshawn Griffin  
Marshawn Michael Griffin  
Florida Bar No.: 98516  
Chief Legal Counsel  
Florida Department of Financial Services  
Office of the General Counsel  
200 East Gaines St.  
Tallahassee, Florida 32399-0333  
(850) 413-4141  
Marshawn.Griffin@myfloridacfo.com

/s/ Greg Caracci  
Greg Caracci  
Florida Bar No.: 116687  
Senior Attorney  
Florida Department of Financial Services  
Office of the General Counsel  
200 East Gaines St.  
Tallahassee, Florida 32399-0333  
(850) 413-4265  
Greg.Caracci@myfloridacfo.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copy of the foregoing Department's Proposed Written Report and Recommended Order has been furnished to counsel for Respondent via the DOAH e-filing portal on this 16th day of December 2022.

/s/ Marshawn Griffin  
Marshawn Michael Griffin

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF FINANCIAL SERVICES,

Petitioner,

vs.

Case No. 22-0984PL

SCOTT DAVID THOMAS,

Respondent.

---

RECOMMENDED ORDER

Pursuant to notice, a final administrative hearing in the above styled cause was conducted before Robert S. Cohen, Administrative Law Judge (“ALJ”) with the Division of Administrative Hearings (“DOAH”), on August 25 and October 21, 2022, in Miami, Florida.

APPEARANCES

For Petitioner: Marshawn Michael Griffin, Esquire  
Greg Caracci, Esquire  
Department of Financial Services  
Room 612, Larson Building  
200 East Gaines Street  
Tallahassee, Florida 32399

For Respondent: Matthew E. Ladd, Esquire  
Law Offices of Matthew E. Ladd, P.A.  
4649 Ponce De Leon Boulevard, Suite 301  
Coral Gables, Florida 33146

STATEMENT OF THE ISSUES

The issues arising in this matter are whether the disputed facts alleged in the ten-count Amended Administrative Complaint (“Complaint”) filed against Scott David Thomas (“Mr. Thomas” or “Respondent”) by the Department of Financial Services (“Department”) prove that Respondent violated the

statutes charged in the Complaint, and, if so, the penalty that should be imposed.

PRELIMINARY STATEMENT

On March 2, 2022, the Department filed an eight-count Administrative Complaint against Respondent seeking to impose discipline against Respondent's public adjuster's license. On March 25, 2022, Respondent timely submitted a petition for hearing alleging that there were disputed issues of material fact and requesting a hearing pursuant to section 120.57(1), Florida Statutes. On March 30, 2022, the Department referred this matter to DOAH. This matter was initially set for final hearing on June 1, 2022. On April 27, 2022, the Department requested leave to amend the Administrative Complaint to add two additional counts. On May 9, 2022, the undersigned granted the Department's Motion for Leave to Amend. On May 13, 2022, Respondent timely submitted a response to the two additional counts. On May 24, 2022, the parties filed a Joint Motion to Continue. On May 24, 2022, the undersigned granted the Joint Motion to Continue and rescheduled this matter for an in-person hearing on August 25, 2022. On August 19, 2022, the parties submitted a Pre-hearing Stipulation wherein the Department voluntarily dismissed Count II of the Complaint. The final hearing began on August 25, 2022, and continued to a second day. On October 21, 2022, both sides rested their cases-in-chief.

The Department called the following witnesses during the hearing: Joaquim Medeiros, Jim Reichle, Linda Berns, Mark Boknecht, Maria Quintana, Glenn Chapter, Ray Wenger, Liron Nicole Stav Roach, and Jason Bamburg. The Department offered 28 exhibits, identified as Department Exhibits 1, 3 through 14, 18, 20 through 27, and 29 through 36, all of which were admitted into evidence. Two Motions for Official Recognition were filed by the Department on August 17 and 19, 2022, respectively, and the matters

therein will be officially recognized by the undersigned to the extent relevant to this Recommended Order.

Respondent testified on his own behalf and called Warren Diener and Keith Lambdin as witnesses. Respondent's Exhibits 1 through 8 were admitted into evidence.

The four-volume Transcript of the proceedings was filed by the court reporter in two parts: volumes 1 and 2 were filed on September 14, 2022, and volumes 3 and 4 were filed on November 10, 2022. The Department timely filed its Proposed Written Report and Recommended Order and Respondent timely filed his Proposed Recommended Order on December 16, 2022. The parties' post-hearing submittals were considered, along with any stipulations contained in the Pre-hearing Stipulation, in issuing this Recommended Order.

All references to the Florida Statutes are to the 2019 codification, which was in effect at the time of the incidents alleged in the Complaint.

#### FINDINGS OF FACT

1. The chief financial officer and the Department are vested with the authority to administer the Florida Insurance Code. The Department is the state agency with the authority to regulate and license public adjusters in the state of Florida pursuant to the Florida Insurance Code. The Department has jurisdiction over Respondent's license and appointments.

2. Respondent is licensed as a public adjuster and holds license number E138926. He also has a history of serving as a Lance Corporal in the United States Marine Corps, having seen many years of active duty overseas, primarily in the Middle East.

3. At all relevant times, Respondent was the owner of, and was employed by, Indemnity Public Adjusters (“IPA”), a public adjusting firm. He has worked in the insurance field for 24 years, only the last five of which have been as a public adjuster.

4. At all relevant times, Asma Qureshi (“Qureshi”) was employed by IPA as a public adjuster.

5. Citizens Property Insurance Corporation (“Citizens”) maintains standard business hours Monday through Friday, 8:00 a.m. through 5:00 p.m.

6. Citizens prefers to schedule home inspections during its standard business hours because Citizens has found “that outside vendors, outside parties are most available” and that “it’s easier to communicate with management, staff, [and] vendors because it’s during business hours and things are open.”

### **Count I**

7. In Count I of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Citizens from having access to necessary information to investigate and respond to a claim, denying reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, failing to exercise due diligence, and demonstrating a lack of fitness and trustworthiness.

8. On September 10, 2017, consumer V.L.’s home was damaged during Hurricane Irma. V.L. retained IPA to assist her in filing a claim with her insurer, Citizens. IPA filed a letter of representation with Citizens on May 9, 2019.

9. Liron Nicole Stav Roach (“Stav Roach”) was the assigned adjuster for Citizens and was supervised by Jason Bamburg (“Bamburg”).

10. Stav Roach and Bamburg conducted an initial inspection of V.L.’s property on June 1, 2019. V.L. was represented at the inspection by Qureshi. Qureshi was present at the inspection on behalf of IPA and filmed the inspection. When Stav Roach and Bamburg arrived at the property, the roof



was covered with a tarp that needed to be removed for the inspection to be completed. Respondent failed to notify Citizens prior to the inspection that there was a tarp on the roof.

11. Had Respondent informed Citizens that there was a tarp on the roof, Citizens could have taken the necessary steps to proceed with the inspection, including obtaining a written estimate from the vendor about the cost to remove the tarp. Bamburg discussed a request for a quote with Qureshi while the inspection was recorded and after the recording of the inspection was completed.

12. Qureshi refused at the inspection on June 1, 2019, to provide an estimate or a quote to remove the tarp, directing Bamburg to speak to V.L.'s attorney. Stav Roach was later provided an expensive quote of \$7,500 to remove the tarp. Bamburg and Stav Roach attempted to negotiate a price for the tarp removal with a representative of the tarp removal company. The representative advised that any negotiation of the price needed to be discussed with his office, but he was unable speak with his office because it was a Saturday. Stav Roach was later able to negotiate a price of \$2,000 to remove the tarp, a price that was more in line with the industry standard for the services rendered.

13. On June 21, 2019, Bamburg emailed Respondent, confirming an inspection on Saturday, June 29, 2019.

14. Respondent replied to Bamburg's email, demanding the following information: (1) the names of all parties that would attend the inspection; (2) the areas of the home that would be inspected along with an explanation of the "necessity of inspecting those areas as it relates to the reported claim for damages"; (3) copies of criminal background checks for all of Citizens' experts; (4) the experts' Department-issued license numbers; (5) the four experts' curricula vitae; (6) the experts' liability and errors and omissions insurance; (7) proof of the experts' workers' compensation insurance; and (8) the disclosure of "not only the name of the engineering firm but also any

conflicts your expert might have with regards to any other open claim files, consulting or appraisal work with the insurance carrier.”

15. Respondent never indicated that the aforementioned demands were made by V.L. nor did Respondent provide written notice to Citizens that the June 29, 2019, inspection would not occur if he was not provided with the requested documentation.

16. Citizens retained an engineer, Medhi Ashraf (“Ashraf”), to conduct the June 29, 2019, roof inspection. On that Saturday, just hours before the scheduled inspection, Respondent informed Citizens that he would not permit Ashraf or Ashraf’s roofing assistant to get on the roof to complete the inspection unless Respondent received the documentation that he demanded.

17. On June 29, 2019, Stav Roach, Bamburg, Ashraf, and Ashraf’s roofing assistant arrived at V.L.’s property to conduct the inspection. They did not have the proof of liability insurance and workers’ compensation insurance. Respondent demanded that Bamburg contact his manager to find out if Citizens would assume liability for Ashraf and his roofing assistant. Bamburg attempted to contact his manager whom he was unable to reach because it was Saturday.

18. Citizens was prepared to conduct an inspection of the property on June 29, 2019, but Respondent refused to allow Citizens to complete its inspection of the roof.

19. On July 11, 2019, Stav Roach emailed Respondent, requesting to reschedule the inspection for July 20, 2019. Respondent replied on July 17, 2019, calling Bamburg “incompetent” and using language that was, according to Stav Roach, “disrespectful, condescending, passive-aggressive, and borderline libel[ous].”

20. On July 20, 2019, Respondent, Stav Roach, Bamburg, and Citizens’ contractors from Infinity EMS (“Infinity”) met at V.L.’s property to conduct an inspection of the roof. It was storming when the parties arrived at V.L.’s property. Bamberg and Respondent had a discussion regarding proceeding

with the inspection based on Respondent's demand to film the inspection. The inspection could not proceed because the contractors from Infinity advised all present that they would not climb onto the roof due to the weather.

21. Over the next four months, Stav Roach attempted to schedule another inspection of the property. Respondent never responded to any of Stav Roach's requests.

22. Thereafter, on January 6, 2020, Citizens denied V.L.'s claim, citing V.L.'s failure to allow Citizens to conduct a complete inspection of the property.

23. V.L. is a law enforcement officer. Respondent repeatedly asserted that because of V.L.'s profession, the only day of the week she was able to be present for an inspection was Saturday.

24. However, in her statement to Citizens, V.L. stated that, during June and July of 2019, V.L. worked a Tuesday through Saturday schedule. V.L. was off on Sundays and Mondays. Mondays were the best day for her to be present during an inspection, but Respondent never notified V.L. about the possibility of scheduling the inspection on a Monday.

25. Respondent was aggressive with Stav Roach and did not treat her with respect during their interactions.

### **Count II**

26. Count II was withdrawn from consideration by the Department in the Pre-hearing Stipulation and is, therefore, dismissed.

### **Count III**

27. In Count III of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by denying reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, failing to exercise due diligence, and demonstrating a lack of fitness and trustworthiness.

28. On February 4, 2019, consumer J.L. suffered a fire-related loss to her home. On February 6, 2019, J.L. executed a contract with IPA to represent her in a claim with her insurer, Citizens.

29. Citizens assigned a claims adjuster, Mark Boknecht (“Boknecht”), to J.L.’s claim. Boknecht contacted J.L.’s counsel about scheduling an inspection of J.L.’s property and was advised to schedule the inspection through Respondent.

30. On May 10, 2019, Boknecht called Respondent to schedule an inspection of J.L.’s residence. Respondent advised Boknecht to send his request via email. On May 13, 2019, Boknecht emailed Respondent to schedule an inspection of J.L.’s property.

31. Respondent did not reply to the May 13, 2019, email.

32. On May 15, 2019, Boknecht called Respondent a second time to try to schedule an inspection. Boknecht requested to schedule the inspection on Monday through Friday at a time between 8:00 a.m. and 5:00 p.m. Respondent demanded that the inspection occur on a Saturday, claiming it was the only day of the week that J.L. was available for inspections.

33. On May 16, 2019, Boknecht sent Respondent another email to schedule an inspection of J.L.’s property on “Monday through Friday, from 8am to 5pm.”

34. On May 23, 2019, Boknecht called Respondent again to attempt to schedule an inspection of J.L.’s property; however, he was unsuccessful.

35. On June 5, 2019, Boknecht emailed Respondent again to schedule an inspection of J.L.’s property.

36. On Wednesday, June 19, 2019, J.L. was scheduled to provide a recorded statement to Citizens. On June 10, 2019, Boknecht emailed Respondent yet again to attempt to schedule the inspection of J.L.’s property immediately after her recorded statement. Respondent still demanded to schedule the inspection of J.L.’s property on a Saturday.

37. On June 10, 2019, Respondent emailed the assigned Citizens SIU (Special Investigations Unit) investigator, Maria Quintana (“Quintana”), regarding the J.L. claim.

38. Respondent’s email to Quintana discussed matters unrelated to the J.L. claim, such as Quintana’s prior employment. Furthermore, Respondent brought up insignificant matters, going as far as to try to instruct Quintana on what he believed her job responsibilities were. Respondent continued to ask for a Saturday inspection date in the email he sent to Quintana.

39. On June 14, 2019, Boknecht emailed Respondent, advising Respondent that Citizens would not agree to a Saturday inspection and again suggesting scheduling the inspection on the same day as J.L.’s recorded statement.

40. J.L.’s recorded statement occurred on June 19, 2019. Boknecht was present for the recorded statement; Respondent was not. J.L. advised that she did not need to be present during the inspection of the property and that the inspection could occur during a weekday. J.L. further advised that she did not know that Respondent was only offering a Saturday inspection.

41. On June 24, 2019, Boknecht emailed Respondent, attempting to schedule an inspection of J.L.’s property on Monday through Friday, between 8:00 a.m. and 5:00 p.m.

42. On July 9, 2019, a Tuesday, Citizens inspected J.L.’s property. Citizens approved J.L.’s claim a week later.

43. It took approximately 50 days for Citizens to schedule an inspection of J.L.’s property due to Respondent’s refusal to cooperate with scheduling weekday inspection dates. Citizens would have been able to approve J.L.’s claim far earlier but for Respondent’s refusal to cooperate with Citizens regarding inspection dates.

44. According to Boknecht, Respondent was aggressive, condescending, and unprofessional in his correspondence.

45. Respondent testified during the hearing that he never refused to schedule an inspection of J.L.'s property on a date other than Saturday. However, the more credible evidence is that Respondent's claim is directly refuted by his email correspondence to Quintana as well as Boknecht's testimony. Respondent also testified that J.L. had to take work off on a Tuesday to attend her inspection. This claim is also not credible because Boknecht testified that J.L. was not even present for the inspection.

#### **Count IV**

46. In Count IV of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Citizens from having reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

47. Rimkus Consulting Group ("Rimkus") was retained by Citizens to conduct an inspection on a property belonging to consumer G.T. Rimkus assigned Joaquim Medeiros ("Medeiros"), a licensed professional engineer with 15 years of experience, to conduct the inspection.

48. Engineering is a specialized knowledge set which requires knowledge obtained through "academic training, experience and education." Engineering requires special knowledge and education, such that "[n]o layperson can overrule a professional engineer" and that "no other person not an engineer in the state of Florida can supervise another engineer's work."

49. Because Medeiros is a senior engineer with Rimkus, Rimkus does not require him to have supervision when conducting inspections.

50. Edward Ingram ("Ingram") was the adjuster assigned by Citizens for G.T.'s claim. Ingram is not an engineer.

51. Respondent was difficult and aggressive during Medeiros's attempts to schedule an inspection of G.T.'s home. An inspection of the G.T. residence was finally scheduled for June 25, 2019. Medeiros arrived at the property

wearing a Rimkus company shirt and hat and prepared to conduct his inspection.

52. Respondent demanded Medeiros provide Respondent with proof of liability insurance and workers' compensation insurance. Medeiros contacted staff at Rimkus and had Rimkus email the requested documentation to Respondent. While Medeiros was attempting to contact Rimkus, he testified that Respondent aggressively approached him.

53. Despite receiving proof of Medeiros's liability insurance and workers' compensation insurance, Respondent advised that he would not permit the inspection to occur because the claims adjuster from Citizens was not present at the scene to supervise Medeiros.

54. During the June 25, 2019, inspection, Respondent unilaterally terminated Medeiros's inspection of G.T.'s property, despite Medeiros's willingness to perform the inspection. Respondent was hostile and combative with Medeiros during the entirety of the attempted inspection on June 25, 2019. Some of this was captured on video, while some of the aggressive behavior may have occurred while Respondent's body camera was turned off. Medeiros's testimony that, during the visit to G.T.'s home, Respondent's behavior was less than professional is credited. Respondent's termination of the June 25, 2019, inspection unnecessarily delayed the resolution of G.T.'s claim.

55. Respondent testified that he never prevented Citizens or Medeiros from conducting an inspection of the G.T. property and that "[t]he adjuster never showed up." Respondent's testimony is directly contradicted by Department Exhibit 18, in which Respondent clearly terminates the inspection.

#### **Count V**

56. In Count V of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Tower Hill Insurance Group ("Tower Hill") from having access to necessary information to

investigate and respond to a claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

57. Consumer L.P.'s home reportedly suffered damage from Hurricane Irma. L.P. retained IPA to serve as his public adjuster in his claim with Tower Hill. L.P. was represented by attorney Randy Shochet ("Shochet"). Tower Hill retained the law firm of Bressler, Amery and Ross, PC ("Bressler"). Bressler assigned Linda Berns ("Berns") to L.P.'s claim.

58. On January 18, 2019, Berns sent Respondent and Shochet an email explaining that Bressler was representing Tower Hill and requesting that an inspection be held during normal business hours. Respondent replied to Berns's email and demanded that Berns provide "the name of your firm or affiliation, your title, your firm or affiliations address, your firm's affiliation or contact number, [and] a letter or communication from the carrier listing what your authority or role in this claim is." Respondent further stated that "[a]s a matter of professionalism, when sending an email to someone it would be helpful and proactive to provide numbers one through five."

59. While Respondent could have easily obtained most of the requested information from the Florida Bar's website, the request was not unreasonable and Berns promptly replied to Respondent's email and provided all of Respondent's requested information, except for the letter or communication from Tower Hill stating Bressler's authority or role in the claim.

60. On January 18, 2019, Respondent emailed Berns and thanked her for her quick reply and "most of the information I requested." Respondent did not give any dates for an inspection of consumer L.P.'s property in his email. Instead, Respondent unreasonably requested "a retainer from Tower Hill in this matter or would it be possible for the carrier to provide something in writing that you are representing them and in what capacity? Once I am provided that, I would be happy discussing the matter with you."

61. Berns's supervisor, Hope Zelinger ("Zelinger"), emailed Respondent, stating that they would not be providing Respondent with a letter of



representation. Zelinger then emailed Respondent stating that, as an officer of the court, Bressler had been retained to represent Tower Hill. No reason was given for the refusal to provide a letter of representation other than, as officers of the court, their assertion of representation should be enough to satisfy Respondent.

62. Respondent replied to Zelinger's email by calling Zelinger unreasonable and recommending that Zelinger and Berns "engage the FL bar for further clarification of this matter." In the evening of January 18, 2019, Respondent sent Berns an email alleging that Tower Hill, Berns, and Bressler were engaging in "shenanigans" with regards to the L.P. claim.

63. Respondent is not licensed as an attorney nor has he claimed to be. However, Respondent maintained a challenging, aggressive, and confrontational tone in his emails with Berns and Zelinger.

64. On June 10, 2019, Tower Hill took an Examination Under Oath ("EUO") of Respondent. The EUO was recorded by a videographer. Tower Hill needed Respondent's EUO to gather information in order to determine coverage on the L.P. claim. After its review of the pertinent information, Tower Hill believed there were inconsistencies in the information provided by L.P., and L.P. claimed he "continuously deferred" to Respondent as to the facts and knowledge of the claim.

65. Respondent was provided with a schedule of documents to bring to the EUO. The schedule included a request for all photographs that Respondent had taken of L.P.'s property. At the EUO, Respondent failed to provide all the photographs, either in digital or hard copy, that he had taken of L.P.'s property. Respondent also failed to provide an executed version of IPA's contract with L.P.

66. During the EUO, Berns repeatedly asked Respondent to provide any photographs he had. Also, during the EUO, Respondent was provided with an exhibit for examination that was printed double sided. One side contained information germane to the EUO, and the other side had a copy of a driver's

license. Respondent was provided with the exhibit but failed to return the exhibit to the court reporter. Respondent advised Berns that he had some of the photographs that he had taken on his phone. However, he also claimed that many of the photos he had taken were lost due to a hard drive failure.

67. The EUO was the first time that Respondent provided Tower Hill with any photographs he had taken of the L.P. claim. According to Berns, Respondent was confrontational, aggressive, and obstructive during the EUO. He refused to answer specific questions about the claim, was evasive, repeatedly accused Berns of making mistakes during the EUO, and refused to wear a microphone provided by the videographer.

68. Respondent threatened to terminate the EUO when asked a question about his ownership of public adjusting companies.

69. During a break, the assigned court reporter was so uncomfortable with Respondent's behavior during the EUO that a new court reporter had to be assigned for the remainder of the EUO.

70. During the break, Berns discovered the exhibit referred to in paragraph 66 was missing. Respondent retained counsel during the break. When the EUO restarted, Respondent claimed Berns accused him of stealing the document. Berns testified that she advised Respondent that she did not accuse him of stealing the document. However, Respondent cut her off mid-sentence. Berns asked Respondent if he misplaced the document and reiterated that she did not accuse Respondent of stealing the document.

71. Respondent then unilaterally terminated the EUO. Respondent never advised Berns that he was terminating the EUO under advice from counsel. The EUO took approximately two hours and 41 minutes. Despite that length of time, Berns and Tower Hill were unable to get to the heart of the matter regarding the claim due to Respondent's behavior and failure to provide his photographs.

72. On or about August 8, 2019, Tower Hill denied L.P.'s claim. Respondent's behavior during L.P.'s claim process was a contributing factor

in the denial of the claim, including Respondent's failure to provide necessary documentation, his failure to assist in the investigation of the claim, and his termination of the EUO.

#### **Count VI**

73. In Count VI of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Lloyds of London from having access to necessary information to investigate and respond to a claim, preventing reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

74. Jim Reichle ("Reichle") was hired by an insurer to act as an appraiser for a claim involving the named insured, M.K. Respondent was retained as M.K.'s appraiser.

75. An inspection of M.K.'s property was scheduled for August 10, 2018. Reichle spoke with the property manager to obtain access to M.K.'s property for the inspection. Respondent was not present for the conversation with the property manager. The property manager volunteered information about M.K.'s property during his conversation with Reichle. Reichle did not interrogate or ask the property manager any questions about the claim.

76. On August 10, 2018, Reichle and Respondent met to conduct the inspection of M.K.'s property. Respondent advised that he would be filming the inspection with video and audio. During the inspection, Reichle and Respondent encountered each other on the second floor of the M.K. property. Reichle then advised Respondent of the information volunteered by the property manager.

77. Respondent accused Reichle of interviewing the property manager and engaged in a strong exchange regarding how he believed Reichle had violated Respondent's right to interview the property manager. Respondent aggressively stated to Reichle, "I was in the Marine Corps in Iraq for 12 years

and I love to fight.” Respondent started filming after threatening Reichle, not during the heated (on Respondent’s part) exchange with Reichle.

78. Respondent then terminated the inspection, ostensibly because Reichle had interviewed the property manager. Respondent then demanded that Reichle vacate the property. Oddly, for someone who testified as to how important it was for him to record as much of an inspection as possible so there is no misunderstanding later as to what transpired, Respondent recorded only two minutes of his interaction with Reichle when they were together for about 30 minutes.

79. In an almost humorous exchange, captured on Respondent’s body camera at the end of the uncompleted inspection, Respondent tells Reichle to “have a nice day” as Reichle is quickly making his exit through the front door of the home.

80. Respondent’s termination of the inspection caused unnecessary delay in the resolution of M.K.’s claim. However, the M.K. claim was settled after Reichle and Respondent conducted their inspections.

81. Respondent testified that he only terminated the appraisal inspection after Reichle walked away from him. Respondent’s testimony of how the inspection was terminated is refuted by his limited video recording of the event and the credible testimony of Reichle that he feared Respondent would physically harm him.

### **Counts VII and VIII**

82. In Counts VII and VIII of the Complaint, the Department alleged that Respondent failed to include his permanent business address on contracts with consumers A.B. and J.A.

83. On March 12, 2019, IPA, by and through Respondent, executed a contract for adjusting services with A.B. A.B.’s contract lists IPA’s and Respondent’s address as Post Office Box 268064, Weston, Florida 33326 (“P.O. Box Address”).

84. J.A.'s contract also lists IPA's and Respondent's address as the P.O. Box Address.

85. Respondent never notified either the Department or the Department of State, Division of Corporations ("Division of Corporations"), that the P.O. Box Address was IPA's business address.

86. On January 28, 2011, Respondent notified the Department, on the Automated Licensing Information System ("ALIS"), that his home, business, and mailing address was 1025 Briar Ridge Road, Weston, Florida 33327. Since January 28, 2011, Respondent has not notified the Department about any changes in his addresses.

87. According to IPA's annual reports filed with the Division of Corporations, IPA's mailing address and principal place of business on March 12, 2019, was 13575 58th Street North, Suite 339, Clearwater, Florida 33760.

88. Respondent testified that, based on his communications with his attorney and the Department's help desk, he believed using the P.O. Box Address as his permanent business address was not a violation. According to Respondent, neither his attorneys nor the helpline advised there was a prohibition on using a post office box as a business address. Respondent did not identify which attorneys he consulted with or whom he may have spoken with on the Department help line. Even if these hearsay statements had been corroborated, if the statute or rules of the Department concerning licensure of public adjusters requires a physical address, and does not provide the option of a post office box address as a substitute, the undersigned is bound to follow the law.

### **Count IX**

89. In Count IX of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing QBE Specialty Insurance ("QBE") from having access to necessary information to investigate and

respond to a claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

90. Respondent was retained by the plaintiff as an expert witness in the case of *Douglas v. QBE Specialty Insurance*, in the Circuit Court in and for Broward County, Florida, case number CACE19013591. The scope of Respondent's testimony was to provide information "regarding the repairs necessary to return the property to its pre-loss condition."

91. Respondent emailed defense counsel for QBE a series of personally insulting and unprofessional emails. In the emails, Respondent took issue with counsel's legal ability, threatened to file a complaint to the Florida Bar, and generally disrespected the attorney. Respondent copied all of the partners of defense counsel's law firm on the series of emails, as well as the senior leadership of QBE.

92. Respondent was hostile toward the process server attempting to subpoena him for a deposition, as Respondent's behavior was "very confrontational." Furthermore, Respondent followed the process server and attempted to video record him and his license plate. Because of Respondent's hostile behavior toward the process server, Professional Process Services refused to engage in further attempts to serve process on Respondent.

93. On September 23, 2021, a deposition in the QBE case had to be terminated due to Respondent's behavior.

94. On December 1, 2021, the court issued an order compelling Respondent's appearance at a deposition. The order advised that if Respondent failed to provide answers for the deposition questions, conducted himself in an unprofessional manner, or unilaterally terminated the deposition, he would be removed as an expert witness in the case.

95. On January 3, 2022, a videotaped deposition of Respondent was scheduled for January 27, 2022. Respondent was on the service list for the deposition notice and, therefore, received notice of the deposition on

January 3, 2022. Respondent was also formally served with a subpoena for the videotaped deposition on January 25, 2022.

96. At the videotaped deposition, Respondent refused to proceed with the deposition if recorded by a videographer, refused to be placed under oath if the deposition was videotaped, claimed he was improperly noticed for the deposition, and accused counsel for QBE of violating the Florida Rules of Civil Procedure.

97. Thereafter, QBE filed a motion to strike Respondent as an expert witness.

98. At a hearing on QBE's motion to strike, Respondent admitted to not being familiar with the Florida Rules of Civil Procedure, despite his prior representations.

99. On March 16, 2022, the court issued an Order on Defendant's Motion to Strike Plaintiff's Expert, Scott David Thomas ("Order"), striking Respondent as an expert witness in the case and specifically finding:

Mr. Thomas has: (1) been aggressive and hostile with process servers, court reporters, counsel for Defendant, and Broward Sheriff's Officers; (2) improperly threatened to contact the Florida Bar regarding counsel for Defendant; (3) improperly refused to answer deposition questions; (4) improperly refused to be placed under oath during his second deposition without proper justification; (5) improperly contacted unrelated members of Keller Landsberg, PA and employees of Defendant; (6) sent insulting, disparaging and aggressive e-mails to counsel for Defendant; and (7) violated the December 1, 2021, Court Order by failing to conduct himself in a professional manner.

100. Respondent's conduct while designated as an expert witness in *Douglas v. QBE* caused a six-month delay in the proceedings.

101. Respondent testified that he did not cite the Florida Rules of Civil Procedure as being violated by counsel during his deposition scheduled for

January 27, 2022. This testimony is refuted by credible evidence in the record. Additionally, Respondent testified that he was not struck as an expert witness in *Douglas v. QBE*. This testimony is also credibly refuted by the record.

**Count X**

102. In Count X of the Complaint, the Department alleged Respondent violated the Florida Insurance Code by preventing Citizens from having access to necessary information to investigate and respond to a claim, by preventing Citizens from having reasonable access to a property that was the subject of an insurance claim, unreasonably delaying the claim, and demonstrating a lack of fitness and trustworthiness.

103. Consumers Mr. L.M. and Mrs. L.M. (collectively referred to as “L.M.”) filed a claim with Citizens for property damage that occurred during Hurricane Irma. L.M. retained Respondent as their appraiser in their claim with Citizens. Jared Holbrook (“Holbrook”) was assigned as Citizens’ appraiser.

104. On March 14, 2019, Respondent sent Holbrook an email confirming an inspection for March 22, 2019, at 1:00 p.m. and indicating his expectation that Holbrook be on time for the inspection.

105. On March 22, 2019, Holbrook arrived at L.M.’s property at 12:45 p.m. Respondent did not arrive at L.M.’s property by 1:00 p.m., the scheduled appointment time. As a result, Holbrook knocked on the door of the property. Mrs. L.M. came to the window, and Holbrook introduced himself. Holbrook advised Mrs. L.M. that he was at the property to meet Respondent for an appraisal inspection. Holbrook then went back to his truck and continued to wait for Respondent. At 1:10 p.m., Respondent still had not arrived at L.M.’s property. Thus, Holbrook knocked on the front door and asked Mrs. L.M. if she had spoken to Respondent. Holbrook asked whether he could start the inspection on the outside of the property and roof, and Mrs. L.M. agreed that Holbrook could start the inspection.



106. When Respondent arrived at the L.M. property at approximately 1:15 p.m., he berated Holbrook for starting the inspection without him. Holbrook was inspecting L.M.'s roof when Respondent arrived. Respondent ordered Holbrook to get off L.M.'s roof. Holbrook informed Respondent that Mrs. L.M. had given him permission to inspect the property. Respondent was hostile and verbally aggressive to Holbrook and told him that he did not have Mrs. L.M.'s permission to begin the inspection. Holbrook suggested that he and Respondent complete the inspection of L.M.'s property. Respondent refused to allow the inspection to go forward and ordered Holbrook to leave the property.

107. Despite having alleged several times during the March 22, 2019, encounter with Holbrook that he did not have permission from the insured to begin the inspection, Respondent later admitted that Holbrook had permission from Mrs. L.M. to begin the inspection.

108. A second inspection of the L.M. property was scheduled for May 15, 2019. At the inspection, Respondent was accusatory and made efforts to prevent a free and open inspection of the property. The inspection was completed despite Respondent interfering with Holbrook's inspection.

109. Following the inspection, Citizens and L.M. were unable to reach an agreement regarding the value of damages to L.M.'s property. Therefore, on July 8, 2019, in case number 2018-033816-CA, in the Circuit Court in and for Miami-Dade County, Florida, an order was entered appointing Saul Cimpler ("Cimpler") as the umpire in L.M.'s claim.

110. An umpire panel meeting was scheduled for September 18, 2019. During the meeting, Respondent was rude and acted unprofessionally.

111. After the meeting with the umpire, on September 25, 2019, Respondent emailed L.M.'s attorney, Hunter Patterson. Respondent copied multiple individuals on the email, including the corporate officers of Citizens, the inspector general of Citizens, the Department, the Office of Insurance Regulation, and Lozano Insurance Adjusters ("Lozano").

112. In this email, Respondent stated that he intended to have his personal attorney file a complaint with the United States Department of Justice based on injustices he perceived as occurring during the L.M. claim. Respondent also stated that he would be sending documentation to the Federal Bureau of Investigation.

113. On that same date, Respondent sent an email to Cimbler. Respondent again copied the corporate officers of Citizens, the inspector general of Citizens, the Department, the Office of Insurance Regulation, and Lozano. In the email, Respondent made disparaging remarks, claiming that Cimbler was unethical.

114. Respondent had been warned several times by Cimbler to refrain from including third parties in emails related to the appraisal of the L.M. claim.

115. Respondent's behavior of scheduling and then canceling inspections and generating insulting, often irrelevant, and unnecessary email correspondence unnecessarily delayed the resolution of the L.M. claim.

116. Respondent testified during the hearing that he never berated Holbrook during the attempted appraisal inspection. Respondent further testified that Mrs. L.M. was distraught that Holbrook was at her residence performing his inspection. This testimony is not corroborated by other witnesses or by evidence admitted into the record. It is even contradicted by Respondent's own video recording of his interactions with Holbrook.

**Findings of Fact Related to Respondent's Testimony in Mitigation of the Charges**

117. Counts I, IV, and V of the Complaint included, in part, claims that Respondent was wrong to seek proof of insurance (liability and workers' compensation) prior to engineers or inspectors commencing their inspections. In defense of his actions regarding engineer Ashraf, Respondent testified that, in Ashraf's deposition, he admitted that he did not have insurance

coverage at the time he went to inspect V.L.'s property, but that he "went out the next day and got it." This testimony is credited.

118. Respondent also testified that he should not be found in violation of the Florida Insurance Code by scheduling inspections on Saturdays. There is nothing, he argues, that requires home inspections to be performed on Monday through Friday during normal business hours. While this is true, as discussed in the Conclusions of Law below, misrepresentations were made concerning J.L.'s availability, as a law enforcement officer, only on Saturdays. She was generally available on at least one weekday that she was not on duty.

119. Respondent believed that the termination of his giving evidence under oath was the result of his not agreeing to put up with being accused by counsel of stealing a document that went missing during the EUO. The evidence discussed above supports a finding that Respondent was not directly accused of stealing anything. His being the victim of a false allegation is not supported by competent evidence.

120. Finally, Respondent testified that he believes his P.O. Box Address satisfies the requirement of his permanent business address. He further testified that the Department never advised him that his permanent business address could not be his P.O. Box Address.

#### CONCLUSIONS OF LAW

121. DOAH has jurisdiction over the subject matter of this proceeding and over the parties hereto pursuant to sections 120.569 and 120.57(1), Florida Statutes (2022).

122. This is a proceeding whereby the Department seeks to revoke Respondent's license as a public adjuster. Petitioner has the burden to prove the allegations in its Complaint by clear and convincing evidence. *Reich v. Dep't of Health, Bd. of Med.*, 973 So. 2d 1233, 1235 (Fla. 4th DCA 2008) (citing *Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932 (Fla.

1996)); and *Ferris v. Turlington*, 510 So. 2d 292 (Fla. 1987). As stated by the Supreme Court of Florida:

[C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and lacking in confusion as to the facts at issue. The evidence must be of such a weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

*In re Henson*, 913 So. 2d 579, 590 (Fla. 2005) (quoting *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983)). This burden of proof may be met where the evidence is in conflict; however, “it seems to preclude evidence that is ambiguous.” *Westinghouse Elec. Corp. v. Shuler Bros., Inc.*, 590 So. 2d 986, 988 (Fla. 1st DCA 1991).

123. A hearing involving disputed issues of material fact under section 120.57(1) is a de novo hearing, and Petitioner’s initial action carries no presumption of correctness. § 120.57(1)(k), Fla. Stat.; *Moore v. Dep’t of HRS*, 596 So. 2d 759 (Fla. 1st DCA 1992).

124. Disciplinary statutes and rules “must be construed strictly, in favor of the one against whom the penalty would be imposed.” *Munch v. Dep’t of Pro. Regul., Div. of Real Estate*, 592 So. 2d 1136, 1143 (Fla. 1st DCA 1992); see *Camejo v. Dep’t of Bus. & Pro. Regul.*, 812 So. 2d 583, 583-84 (Fla. 3d DCA 2002); *McClung v. Crim. Just. Stds. & Training Comm’n*, 458 So. 2d 887, 888 (Fla. 5th DCA 1984) (“[W]here a statute provides for revocation of a license the grounds must be strictly construed because the statute is penal in nature. No conduct is to be regarded as included within a penal statute that is not reasonably proscribed by it; if there are any ambiguities included, they must be construed in favor of the licensee.” (citing *State v. Pattishall*, 126 So. 147 (Fla. 1930))).

125. The grounds proving the Department's assertion that Respondent's license should be disciplined must be those specifically alleged in the Complaint. *See, e.g., Trevisani v. Dep't of Health*, 908 So. 2d 1108 (Fla. 1st DCA 2005); *Kinney v. Dep't of State*, 501 So. 2d 129 (Fla. 5th DCA 1987); and *Hunter v. Dep't of Pro. Regul.*, 458 So. 2d 842 (Fla. 2d DCA 1984).

126. Due process prohibits the Department from taking disciplinary action against a licensee based on matters not specifically alleged in the charging instrument, unless those matters have been tried by consent. *See Shore Vill. Prop. Owners' Ass'n v. Dep't of Env't Prot.*, 824 So. 2d 208, 210 (Fla. 4th DCA 2002); and *Delk v. Dep't of Pro. Regul.*, 595 So. 2d 966, 967 (Fla. 5th DCA 1992).

127. In this case, the Department has charged Respondent, in Counts I, III through VI, IX, and X, with violating Florida Administrative Code Rule 69B-220.201(3)(f), which contains the Adjuster's Code of Ethics, and requires that public adjusters act with dispatch and due diligence in achieving a proper disposition of a claim.

128. As to those specific counts, a violation of sections 626.611(1)(g) and 626.854(14), (14)(b), or (14)(c), Florida Statutes, or rule 69B-220.201(3)(f), establishes a violation of section 626.621(2).

**Respondent failed to comply with the "permanent business address" requirement.**

129. Section 626.875 provides as follows:

(1) Each appointed independent adjuster and licensed public adjuster must maintain a place of business in this state which is accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of such an office in the home of the licensee.

(2) The records of the adjuster relating to a particular claim or loss shall be so retained in the adjuster's place of business for a period of not less

than 5 years after completion of the adjustment. This provision shall not be deemed to prohibit return or delivery to the insurer or insured of documents furnished to or prepared by the adjuster and required by the insurer or insured to be returned or delivered thereto.

130. Further, section 626.8796 provides, in pertinent part, as follows:

(2) A public adjuster contract relating to a property and casualty claim must contain the full name, *permanent business address*, and license number of the public adjuster; the full name of the public adjusting firm; and the insured's full name and street address, together with a brief description of the loss. (emphasis supplied)

131. Respondent argues that “permanent business address” must include either a physical address or a post office box because the statutes and rules governing public adjusters do not specifically define “permanent business address.” Since a post office box is a “physical address,” that is, there is a tangible box set in a wall within the post office, it becomes a permanent business address. The undersigned cannot reach this conclusion when reading sections 626.875 and 626.8796 together.

132. As cited by Respondent, the Florida Supreme Court in *Gaulden v. State*, 195 So. 3d 1123, 1125-26 (2016), articulated that, “The cardinal rule of statutory construction is ‘that a statute should be construed so as to ascertain and give effect to the intention of the Legislature as expressed in the statute.’” *City of Tampa v. Thatcher Glass Corp.*, 445 So. 2d 578, 579 (Fla., 1984) (quoting *Deltona Corp. v. Fla. Pub. Serv. Comm’n*, 220 So. 2d 905, 907 (Fla. 1969)). Thus, “[w]hen the statute is clear and unambiguous, courts will not look behind the statute’s plain language for legislative intent or resort to rules of statutory construction to ascertain intent.” *Borden v. East–Eur. Ins. Co.*, 921 So. 2d 587, 595 (Fla. 2006) (quoting *Daniels v. Fla. Dep’t of Health*, 898 So. 2d 61, 64 (Fla. 2005)). But “if the statute is ambiguous on its face, the Court can only then rely upon the rules of statutory construction in order to

discern legislative intent.” *Koile v. State*, 934 So. 2d 1226, 1233 (Fla. 2006). *Id.* at 1126.

133. When section 626.8796 is read alone, the term “permanent business address,” being undefined, could mean an address that has been kept over time by a public adjuster. That narrow reading would allow the undersigned to conclude that the P.O. Box Address discussed throughout this Recommended Order is, in fact, a physical address that could be considered a permanent business address. However, when section 626.8796 is read together with (*in pari materia*) section 626.875, it is clear that there is more to the term “permanent business address” than a box where mail can accumulate. The latter statute refers to a “place of business” where the adjuster’s usual and customary records of claims are kept and are available for inspection by the public for at least five years. This means the public adjuster’s place of business or home. The undersigned is not aware of any post office boxes that are designed as repositories for records and provides a location for the public to visit and inspect their records, or in the absurd sense, could serve as a home for a public adjuster. Moreover, even if the post office box could serve as a physical address, Respondent failed to register it as such with the Department or with the Division of Corporations. Accordingly, Respondent has violated the counts of the Complaint regarding having a permanent physical address and is subject to discipline therefor.

134. Therefore, the Department has proven by clear and convincing evidence that Respondent violated section 626.8796(2), as charged in Counts VII and VIII of the Complaint, by listing the P.O. Box Address as his business address in the A.B. and J.A. contracts.

**Respondent has violated Department statutes and rules regarding making the subject properties, in Counts I, III through VI, IX, and X, available for inspectors.**

135. The Department has proven by clear and convincing evidence that Respondent violated section 626.854(14), (14)(b), and (14)(c) and rule 69B-220.201(3)(f) as charged in Count I of the Complaint, by preventing Citizens

from having reasonable access to V.L.'s property when Respondent refused to permit Citizens to conduct an inspection of the property on June 29, 2019, and thereafter refused Citizens access to the property from July 2019 through November 2019, an unreasonable length of time.

136. Specifically, the testimony of Bamburg and Stav Roach established that Respondent failed to notify them prior to the June 29, 2019, inspection that he would refuse to permit Ashraf or his contractor to inspect the roof without providing proof of workers' compensation and liability insurance, which, the evidence showed, he did not have on the date of the first inspection, but was secured a day later. Respondent, Bamburg, and Stav Roach communicated several times prior to the June 29, 2019, inspection, and yet Respondent waited until the last minute to state he would not permit an inspection without proof of insurance. Even when Ashraf secured the appropriate coverage, the inspection process suffered numerous delays. Therefore, Respondent failed to act with dispatch in resolution of the claim.

137. Further, by restricting Citizens' access to V.L.'s property to Saturdays only, a day V.L. said she was not generally available, Respondent prevented Citizens from having reasonable access to V.L.'s property. Respondent claimed that this was due to V.L.'s schedule. However, the record evidence establishes that V.L. was also available for Monday inspections. Respondent refused to inform V.L. of the potential of a Monday inspection, Respondent failed to adequately inquire about V.L.'s schedule, or Respondent knew about V.L.'s schedule and misrepresented that information to Citizens. Any of the three options demonstrate Respondent's lack of dispatch and due diligence in resolving V.L.'s claim.

138. Respondent maintains that he did not obstruct reasonable access to V.L.'s property because the property was available for inspection on June 1 and July 20, 2019. This argument ignores the fact that: (1) Respondent failed to notify Citizens about the tarp covering the roof prior to the June 1, 2019, inspection; and (2) the July 20, 2019, inspection could not have occurred



because Infinity refused to go on the roof due to the weather. This behavior does not evidence a cooperative spirit towards resolving a claim on Respondent's part.

139. Respondent's precondition of proof of workers' compensation and liability insurance, in and of itself, was reasonable. A homeowner should not be held responsible for an injury to an adjuster, inspector, engineer, or other person hired to help adjust a claim. Requiring proof of personal liability and workers' compensation insurance, if applicable, is a reasonable request by a public adjuster who is acting in the best interests of his or her client. However, Respondent still denied Citizens reasonable access to the property for the four months following July 20, 2019, when he failed to respond to Stav Roach's multiple requests for additional inspection dates. The denial of V.L.'s claim is directly attributable to Respondent's failure to cooperate with Citizens' right to inspect the property.

140. Chapter 626 does not define the term "fitness." When terms are not defined in a statute, the "plain and ordinary meaning of those terms applies." *Nat'l Fed'n of Ret. Persons v. Dep't of Ins.*, 553 So. 2d 1289, 1290 (Fla. 1st DCA 1989). In *Norkin v. Department of Financial Services*, Case No. 16-1996, 2016 WL 4584611, RO at ¶ 40 (Fla. DOAH Aug. 30, 2016; Fla. DFS Dec. 5, 2016), the ALJ and the Department found that the Webster's Dictionary definition of "fit" was applicable in the licensure context and meant "proper or acceptable," "morally or socially correct," and "suitable for a specified purpose."

141. Additionally, the Department has previously found that a disregard for regulatory authority and a failure to conform with basic ethical principles are demonstrative of a licensee's lack of fitness and trustworthiness. *Dep't of Fin. Servs. v. Cephas*, Case No. 03-0798PL, 2003 WL 21510765, RO at ¶ 45 (Fla. DOAH July 1, 2003; Fla. DFS July 25, 2003).

142. The Adjuster's Code of Ethics, as contained in rule 69B-220.201, constitutes the basic ethical principles for all adjusters licensed under the

Florida Insurance Code. Respondent's conduct in the inspections giving rise to this matter violated section 626.611(1)(g) because Respondent's behavior was not morally or socially correct and because his conduct failed to conform with basic ethical principles. The Department has proven Respondent's lack of fitness and trustworthiness in Count I because the record evidence establishes that Respondent failed to adhere to basic ethical principles and engaged in harassing, unprofessional, and disparaging treatment of Bamburg and Stav Roach. Furthermore, Respondent misrepresented V.L.'s schedule to Citizens, which demonstrates a lack of fitness and trustworthiness.

143. The Department has proven by clear and convincing evidence that Respondent violated section 626.854(14), (14)(b), and (14)(c) and rule 69B-220.201(3)(f), as charged in Count III of the Complaint, by obstructing and preventing Citizens from having reasonable access to J.L.'s property. Despite Citizens' multiple attempts (three telephone calls and six emails), Respondent refused to schedule an inspection of J.L.'s property for the 50 days between May 10 and July 9, 2019. Respondent's defense to the delay based upon his representations that J.L. could only be present for an inspection on a Saturday was refuted by competent substantial evidence that J.L. could be available on other days and that she did not even have to be present for the inspection if her public adjuster were present to represent her. In fact, J.L. gave her recorded statement to Citizens on a Wednesday, June 19, 2019. Further, Respondent's conduct toward Citizens' employees during the J.L. claim, including using aggressive, condescending, and unprofessional correspondence with Boknecht, and sending unnecessary and harassing email correspondence to Quintana, all demonstrate Respondent's lack of fitness and trustworthiness.

144. The Department has proven by clear and convincing evidence that Respondent has violated section 626.854(14), (14)(b), and (14)(c) and rule 69B-220.201(3)(f), as charged in Count IV of the Complaint, by obstructing and preventing Citizens from having reasonable access to G.T.'s property

through Respondent's termination of Medeiros's attempted inspection of G.T.'s property.

145. The evidence clearly establishes that Medeiros arrived at G.T.'s property prepared to conduct his inspection. Medeiros provided Respondent with his requested workers' compensation and liability insurance, but Respondent refused to allow Medeiros to complete his inspection. The evidence clearly establishes that Medeiros's inspection of G.T.'s property on June 25, 2019, could have occurred but for Respondent's unreasonable unilateral termination of the inspection. Respondent's termination of Medeiros's inspection unnecessarily delayed the resolution of G.T.'s claim and, thus, demonstrates Respondent's failure to act with proper dispatch during the claim. Moreover, the Department has proven by clear and convincing evidence that Respondent violated section 626.611(1)(g), as charged in Count IV of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during the G.T. claim. Respondent's failure to adhere to basic ethical principles by violating the Adjuster's Code of Ethics and his behavior during his interactions with Mr. Medeiros, including being aggressive and difficult during attempts to schedule the inspection and harassing Medeiros by engaging in hostile and aggressive behavior during the June 25, 2019, attempted inspection, all demonstrated a lack of fitness and trustworthiness.

146. The Department has proven by clear and convincing evidence that Respondent violated section 626.854(14), (14)(b), and (14)(c) and rule 69B-220.201(3)(f), as charged in Count V of the Complaint, by preventing and obstructing Tower Hill from having reasonable access to necessary information to investigate and respond to the L.P. claim. As set forth above, his behavior in the EUO was inexcusable and terminating the EUO was totally uncalled for. His actions demonstrated a lack of due diligence in handling L.P.'s claim and, pursuant to section 626.611(1)(g), a lack of fitness

and trustworthiness to engage in the business of insurance during his involvement in the L.P. claim.

147. Regarding Counts VI and X, much was made at hearing as to whether Respondent was acting as a public adjuster or an appraiser with respect to the two claims related to those counts. Regardless of whether Respondent performed some appraisal duties in connection with the claims addressed in Counts VI and X, the testimony elicited at hearing clearly establishes that Respondent's specific work on those claims involved conducting an inspection or investigation of the claim and that his work involved effecting a potential settlement or resolution of the claim. His involvement in the two claims fell within the scope of his role as a public adjuster. Moreover, as discussed at length above, Respondent's behavior in those two incidents evidenced violations of his obligation to demonstrate his fitness and trustworthiness to maintain his license to engage in the business of insurance. Whether his role crossed into the arena of appraising versus that of public adjusting is irrelevant. The clear and convincing evidence in this case was that, except for the carve out above for requiring proof of insurance, Respondent's overall actions fell far below the ethical and professional standards required of public adjusters.

148. The Department has proven by clear and convincing evidence that Respondent has violated section 626.854(14), (14)(b), and (14)(c) and rule 69B-220.201(3)(f), as charged in Count VI of the Complaint, by obstructing and preventing Lloyds of London from having reasonable access to M.K.'s property. The facts establish that Respondent unilaterally terminated the inspection of M.K.'s property by Reichle; that Reichle never talked directly to the property manager as he was accused of doing by Respondent; and that the appraisal inspection by Reichle would have timely occurred but for the actions of Respondent.

149. The Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), as charged in Count VI of the

Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during his involvement in the M.K. claim by his threatening and abusive behavior of Reichle.

150. The Department has proven by clear and convincing evidence that Respondent has violated section 626.854(14), (14)(b), and (14)(c) and rule 69B-220.201(3)(f), as charged in Count IX of the Complaint, by obstructing and preventing QBE from having reasonable access to necessary information to respond to a claim. In short, the court's order in *Douglas v. QBE*, as discussed above, established Respondent's improper behavior concerning this claim. Further, the Department has proven by clear and convincing evidence that Respondent has violated section 626.611(1)(g), as charged in Count IX of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during his involvement in *Douglas v. QBE*. The totality of his actions towards process servers, court reporters, and counsel for QBE in that case show a complete lack of ethical and professional behavior on his part.

151. The Department has proven by clear and convincing evidence that Respondent has violated section 626.854(14), (14)(b), and (14)(c) and rule 69B-220.201(3)(f), as charged in Count X of the Complaint, by obstructing and preventing Citizens from having reasonable access to L.M.'s property. Respondent unilaterally terminated the inspection of the subject property by Holbrook and further violated section 626.611(1)(g), as charged in Count X of the Complaint, by demonstrating a lack of fitness and trustworthiness to engage in the business of insurance during his involvement in the L.M. claim.

#### **Penalty Recommendation**

152. Respondent testified at hearing that "[a] public adjuster advocates on the part of the homeowner – advocates on the part of a homeowner, sir for an insurance company. The job of a public adjuster is not to be evasive or not to be disruptive or not to be contentious. The job of a public adjuster is to assist

the insured with their claim, but also make sure that you follow Florida Statutes, make sure that you look out for the insured's best interest." The undersigned finds this to be an excellent statement of how a public adjuster is supposed to conduct his professional business. However, throughout the course of Respondent's involvement with his clients and the numerous other professionals with whom he came in contact for purposes of the subject of these proceedings, one thing is clear: Respondent did not practice what he preached.

153. In every case comprising the substance of the charges here against Respondent, he obstructed the ability of the ancillary personnel—appraisers, contractors, engineers, inspectors, lawyers, Citizens adjusters, etc., with whom he necessarily had to work—in so many detrimental ways. Whether he was terminating an inspection, intimidating an engineer, requiring inspections on a Saturday when the homeowner was available on at least one weekday, or even when he was engaged in the legal process before court reporters, process servers, and a circuit court judge, Respondent failed to demonstrate he possessed the fitness and trustworthiness required by the ethical standards for public adjusters. While a handful of excellent attorneys testified on his behalf, noting that Respondent is an excellent public adjuster who gets top results for his clients, such excellence was not demonstrated in the cases represented by the ten counts in the Complaint giving rise to these proceedings. What happened in each of these cases evidenced a pattern of angry, aggressive behavior that, in some settings, amounted to bullying of the people hired to help bring property insurance claims to a reasonable settlement.

154. Even Respondent's refusal to accept that a post office box cannot serve as a permanent place of business shows a stubbornness to accept anyone's professional interpretations of the law as perhaps being reasonable. Only Respondent's behavior, in his eyes, is appropriate. Only he can be right, whether dealing with professional peers, lawyers, court personnel, and even

judges. His behavior cannot be excused and merits a penalty here that is as serious as his behaviors giving rise to these proceedings.

155. Section 626.611(1) provides, in pertinent part:

The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it *shall suspend or revoke* the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

\* \* \*

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

\* \* \*

(m) 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.

(Emphasis added).

156. The plain language of section 626.611(1) shows a clear legislative intent that violations of section 626.611 must be disciplined with a more severe sanction than an issuance of a notice of noncompliance or even a fine.

157. Section 626.8698(6) provides that “[t]he department *may* deny, *suspend, or revoke the license* of a public adjuster or public adjuster apprentice, and administer a fine not to exceed \$5,000 per act, for any of the following: [v]iolating any ethical rule of the department.” (Emphasis added).

158. By permitting the Department to impose suspension, revocation, or a fine for a violation of the Adjusters Code of Ethics, the Legislature has evidenced a clear directive that violations of the Adjuster’s Code of Ethics

cannot be minor violations for which the issuance of a notice of noncompliance would be appropriate.

159. The undersigned has concluded that Respondent violated each of the nine counts (Count II was withdrawn from consideration) of the amended Complaint, but that the alleged violations of the Department's statutes and rules concerning Respondent's demand of proof of liability and workers' compensation insurance were, in fact, not statutory or rule violations.

160. Moreover, Respondent's ability to achieve a favorable outcome for his clients has no bearing on whether a violation of the Florida Insurance Code has occurred. The fact that competent witnesses testified that Respondent was an excellent public adjuster, based upon his dealings with them and their clients, does not excuse his behavior with respect to the homeowners' claims that became the subject of these proceedings.

161. The Department argues that the maximum penalty per count should be imposed here. This would lead to a penalty of six months per the highest violation in each count for a total of 54 months. Pursuant to Florida Administrative Code Rule 69B-231.040, if the total amount of penalty to be imposed exceeds 24 months, then the penalty is revocation.

162. The undersigned believes that Respondent has committed, over a relatively short period of time, a significant number of violations that have been proven by clear and convincing evidence. Further, the undersigned determines here that, not only does Respondent show no remorse, but he believes he has done no wrong and all of the charges brought against him should be dismissed without penalty. The undersigned disagrees with this assessment by Respondent. However, in light of Respondent's long history of being a licensed professional bound by the Florida Insurance Code, he has been an effective public adjuster and, before that, appraiser. He clearly has some issues that need to be addressed, especially in how he treats the people a public adjuster must work closely with when performing their statutory



duties, generally in the aftermath of a major storm, flood, fire, or other natural disaster.

163. A significant suspension of his public adjuster's license for his violations of the matters referred to in Counts I, III through VI, IX, and X, as well as a fine for the violations of the permanent business address requirement set forth in Counts VII and VIII, should give Respondent time to contemplate his actions, take available courses on public adjusting and, perhaps, anger management, and call upon his inner resolve and strength as a Marine to do better once his license has been reinstated.

164. The undersigned hereby recommends that the following penalties be imposed on Respondent's license: a three-month suspension for each of Counts I, III, IV, V, VI, and X; a six-month suspension for Count IX (due to the fact that Respondent's improper behavior escalated from a homesite into the judicial system); and a \$2,500 fine for each of Counts VII and VIII.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entered by the Department of Financial Services suspending Scott David Thomas's license as a public adjuster for 24 months and imposing a fine in the amount of \$5,000, as more fully explained in paragraph 164 above.

DONE AND ENTERED this 30th day of January, 2023, in Tallahassee, Leon County, Florida.



---

ROBERT S. COHEN  
Administrative Law Judge  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675  
[www.doah.state.fl.us](http://www.doah.state.fl.us)

Filed with the Clerk of the  
Division of Administrative Hearings  
this 30th day of January, 2023.

COPIES FURNISHED:

Matthew E. Ladd, Esquire  
(eServed)

Marshawn Michael Griffin, Esquire  
(eServed)

Greg Caracci, Esquire  
(eServed)

Whitney Vanderau, Agency Clerk  
(eServed)

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.